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The Choctaw Nation and the Dawes Commission

Jeanne Francis Moore
Loyola University Chicago

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THE CHOCTAW INDIANS
AND
THE DAWES COMMISSION

by

Sister Jeanne Francis Moore

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of Loyola University in Partial Fulfillment of
the Requirements for the Degree of
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LIFE

Sister Jeanne Francis Moore was born in Indianapolis, Indiana, May 20, 1906.

She was graduated from the Saint John Academy, Indianapolis, Indiana June 20, 1923 and entered the novitiate of the Sisters of Providence on September 7, 1923. She received her degree of Bachelor of Arts from Saint Mary-of-the-Woods College in June, 1942.

From 1926 to 1942 she taught in the elementary parochial schools of Chicago, Illinois; Fort Wayne, Indiana; Washington, D.C. After receiving her degree she taught at the Immaculata Seminary in Washington, D.C. and at Reitz Memorial High School in Evansville, Indiana. She began her graduate studies at Loyola University in June, 1949. For the past three years she has been the principal of Corpus Christi School, Oklahoma City, Oklahoma.

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CHAPTER I

CHOCTAW REMOVAL AND SETTLEMENT

The Choctaw Indians were a Muskogean tribe who occupied the central and southern part of the present state of Mississippi, and a large tract of territory in the southwestern part of Alabama. By a series of treaties with the United States government, the Choctaws relinquished practically half of their original territory by 1819.¹ In 1820 a very important treaty was signed at Doak's Stand on the Natchez Trace in Mississippi. By this treaty the Choctaws exchanged the southwestern portion of their lands for a tract of land between the Red River on the south and the Arkansas and Canadian Rivers on the north. The treaty was signed by one hundred chiefs and head men of the Choctaw Nation besides the three district chiefs, Pushmataha, Apukshennubbee and Moshulatubbee; the government commission consisted of General Andrew Jackson and General Thomas Hinds.² The United States offered inducements to emigrate to the new country by promising the Indians supplies for the first year and the assistance of an agent and a blacksmith.³

1 Charles J. Kappler, (ed) Laws and Treaties, "Indian Affairs," Washington, 1904, II, 56-137; Charles C. Royce, 18th Annual Report: Bureau of American Ethnology, Washington, 1899, 599.

2 Kappler, II, 192.

3 Ibid., 195.

The Indians did not get a chance to take over their new territory before the government discovered that the eastern portion of their western lands was already occupied by white settlers. Realizing the difficulty of moving the settlers, the government decided to induce the Choctaws to give up the title to that portion of their land. Accordingly the Choctaw leaders were invited to Washington to arrange some settlement.⁴ The three District Chiefs, accompanied by the other head men of the Nation, started for the Capital in 1824. Tragedy met them on the way when their District Chief, Apukshennubbee was killed by accident near Maysville, Kentucky. During the negotiations in the nation's capital, death came to another District Chief, Pushmataha. He has been known as the orator-warrior of the Choctaw Nation. Someone asked the dying chief how the Choctaws would receive the news of his death. With simple grandeur, he answered: "The news of the death of Pushmataha will sound to the Choctaw Nation like the falling of a great tree in the forest." He was buried in the National Cemetery at Arlington. Just before his death he requested that the "big guns" might be fired over him.⁵

The negotiations continued and the treaty was adopted in 1825.⁶ It established the present boundary between Oklahoma and Arkansas. By its terms the retrocession of the lands in Arkansas was accomplished. The Indians were to receive a permanent annuity of \$6,000 and an annuity for sixteen years of

⁴ H. B. Cushman, History of the Choctaw, Chickasaw, and Natchez Indians, Greenville, Texas, 1899, 299.

⁵ The Vindicator, New Boggy, Indian Territory, August 24, 1872. "Foreman Transcripts," Oklahoma Historical Society, Oklahoma City, 2-4.

⁶ Kappler, II, 211-214.

the same amount. The Indians requested that the permanent annuity be used for the education of Choctaw youths.⁷ Subsequent to this treaty, many attempts were made on the part of the government to induce the Choctaws to remove to their western lands, but the Indians, although courteous, were firm in their refusal.⁸

The Indians during many centuries had occupied their present territory, and they were not only attached to the soil, but their spirit had become profoundly affected by the character and features of the country itself.⁹ This was their "ancestral hunting ground," and when the actual removal of the tribe took place, many of the Indians would leave the government trains and be absent for days together. They had gone back to the graves of their fathers and "once more broken the bowstring over them," and gazed for the last time upon the scenes they loved so well. And then with the speed of a deer they overtook the trains and proudly covered their grief with "their mantle of stoicism."¹⁰

In 1828 another attempt was made to induce the Choctaws to sell their eastern lands. At a meeting of the Federal commissioners and the Choctaw Council, one of the selectment addressed the commissioners thus:

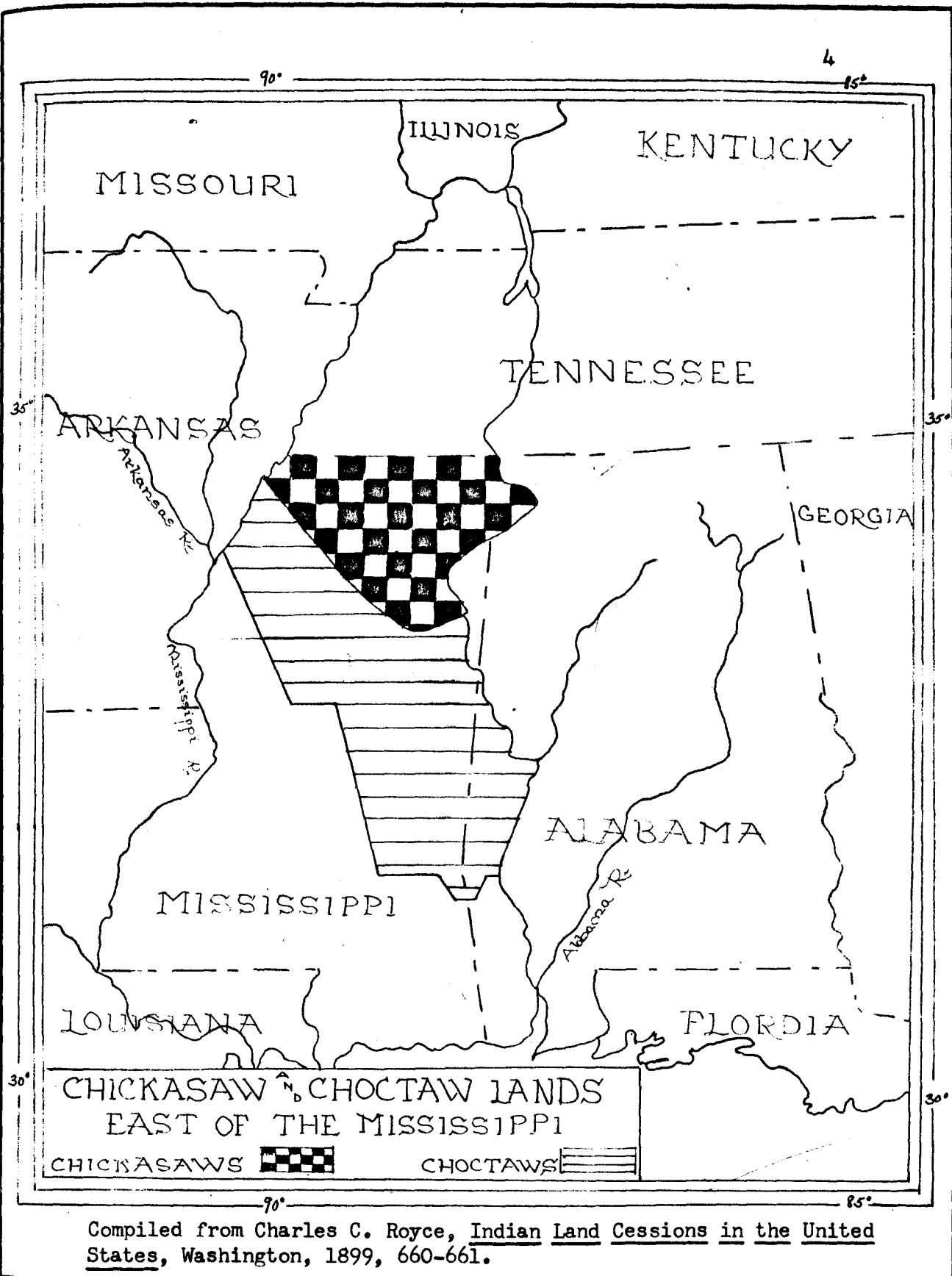
. . . We listened to our father, the President. We sent a delegation of our head men to the city of Washington who ceded back several million acres of our new land for the benefit of Arkansas. Again last winter another proposition was sent to the Nation requesting of our

7 Kappler, II, 214.

8 American State Papers, Class II, "Indians Affairs," 1828, II, 559.

9 Joseph B. Thoburn and Muriel H. Wright, Oklahoma, A History of the State and its People, N. Y., 1929, 122.

10 Cushman, 310.



Compiled from Charles C. Royce, Indian Land Cessions in the United States, Washington, 1899, 660-661.

head men that we should cede back a further portion of our lands west of the Mississippi; and finally we are now urged to sell all of our country here. Where shall we stop? Where shall we find a resting place? We ought to be permitted to breathe awhile and look around us We know full well that the United States is a great and powerful people but we cannot believe that her course toward the unhappy aborigines of this country will be such as to leave a blot on her history to detract from the admiration of future times.¹¹

By the treaties of 1820 and 1825, the Choctaws had become absolute owners in perpetuity of all their remaining lands west of the Mississippi-- that ownership being a right of perpetual exclusive occupancy to be occupied solely by them, and with reversion to the United States in case of national extinction.¹²

The first move on the part of the government toward the removal of the Indians by actual legislation was put forth in the Indian Removal Bill of 1830. It passed both houses of Congress after bitter debate and was signed by President Jackson on May 28, 1830. It did not authorize the removal of the Indians by force, and did not seem to jeopardize their situation, but it did announce a government policy favorable to the removal of the Indians by giving to the President the means to start negotiations for securing exchanges of the lands occupied by the different tribes of Indians. At first there was question only of moving the Indians to other lands within the states where they were settled already, however, this was soon changed to embrace all of those Indian

11 American State Papers, V, 715.

12 "Notes upon the Choctaw Question," Papers of the Choctaw Indians, Ayer Collection, Newberry Library, Chicago, 4.

lands within the states or otherwise situated.¹³

The Choctaws themselves had sent a treaty to Congress with provisions for removal on their own terms, but the Senate rejected the treaty on the grounds that it was too favorable to the Indians.¹⁴

In June of 1830, the Secretary of War, John H. Eaton, notified the Choctaws of the defeat of their treaty and asked them to meet the commissioners to frame another treaty that would be favorable to both parties. The following September, the Choctaw leaders finally agreed to meet the commissioners and the treaty known as the Treaty of Dancing Rabbit Creek was signed.¹⁵ By the terms of this treaty, the Indians relinquished to the United States, the last of their holdings east of the Mississippi amounting to 10,421,139 acres of land. Four million acres of this land lay in the delta region--the richest cotton lands in the South.¹⁶ At this time the grant of the western lands was confirmed and the title conveyed to them in fee simple. In writing on the subject of these lands, John C. Calhoun shows the attitude of the people toward westward expansion. He says:

There is no probability that any state or territory will ever be erected to the West of Arkansas Territory. The Choctaws who choose to emigrate will have a quiet and undisturbed possession of the immense country lying between the Arkansas and Red River . . .

13 United States Senate Document, 23d Cong., 1st Sess., No. 512, Washington, 1833, II, 4. [This series of five volumes and more than four thousand pages of reports, journals, and correspondence on every phase of the subject of Indian Removal will be referred to hereafter as Senate Document.]

14 Statutes at Large, IV, 411-412.

15 Senate Document, II, 240-263; Kappler, II, 310-319.

16 Kappler, II, 321.

and being amply sufficient for the wants of the whole Choctaw Nation.¹⁷

The treaty was not ratified and proclaimed until February 24, 1831.

The provisions for the removal included: Expense of removal and maintenance for one year; 1,000 guns, ammunition, blankets, and kettles; 1,000 axes, hoes, and ploughs; 1,000 wheels, cards, and looms; three blacksmiths for sixteen years; replacement of livestock with payment for improvements on present lands. The financial remuneration consisted of: annuity of \$25,000 for twenty years; education for forty Choctaw boys for twenty years; pay for chiefs for twenty years; pay for forty captains for four years at fifty dollars. Land grants were made to each of the three chiefs, to two former chiefs, to the speakers of each district, to thirteen captains.¹⁸ Besides all of this they received an oft-quoted guarantee of their national existence. This clause, which was used effectively by their leaders during the next seventy-five years, stated that the United States would secure to them and their posterity:

the jurisdiction and government of all the persons and property that may be within their limits west, so that no Territory nor State shall ever have a right to pass laws for the government of the Choctaw Nation of Red People and their descendants; and that no part of the land granted them shall ever be embraced in any territory or state.¹⁹

During the negotiations at Dancing Rabbit Creek, one of the deciding factors in causing the Indians to yield to the commissioners' terms was the stipulation that an exploring party be sent into the western lands of the Choctaws. John Pitchlynn, one of the head men of the tribe requested that Colonel

17 American State Papers, II, 549.

18 Senate Document, II, 262-263.

19 Kappler, II, 310-319.

George S. Gaines, a licensed merchant who had dealt honestly with the Indians and held their confidence and respect for his character and ability, would be asked to conduct the exploring party. It was further requested that Gaines would be entrusted with the management of the removal, for the Indians said they knew that he would not "drive them through the mud like animals."²⁰ The exploring party consisted of twelve persons who according to the treaty were allowed two dollars a day for one hundred days.

The Choctaws were more provident in their arrangements for the removal than was the government. When the decision to remove had finally been made, the three District Chiefs decided where each of their groups would locate in the new territory. Nitakechi, of the Six Town District desired to move to the west side of the Kiamichi River. The population of his district is estimated at 6,106. The chief of the Lower Towns, Mushulatubbee, had stated that he and his six thousand followers would move to the northern section of their territory in the region of the Arkansas River. LeFlore, with his group of 7,505 decided to move to the east side of the Kiamichi near the location of Fort Towsen.²¹ According to the twelfth article of the treaty, every Choctaw head of a family could remain and select an allotment, becoming a citizen of the United States.²²

Vicksburg was selected as the gathering place for most of the Indians who consented to remove in the autumn of 1831; nearly 4,000 of them arrived

20 Senate Document, I, 252.

21 Grant Foreman, Indian Removal, Norman, Oklahoma, 1932, 46.

22 Kappler, II, 315.

there between the fifteenth and twenty-fifth of November. All of these were from Nitakechi's and Mushulatubbee's districts, and were headed for the Red River in the vicinity of the Kiamichi. Due to the limited facilities for handling the emigrants, it was decided to take them in two groups from Vicksburg. Part were to be taken up the Arkansas River to Little Rock by boat, and from there overland southwest through Washington, Arkansas, to the Red River section of their new home. The others were to go down the Mississippi River, up the Red River to the mouth of the Washita River, and up a stream where they were to be landed. They would still have to travel overland for one hundred and sixty miles to Fort Towson, where they would join the route of those coming from Little Rock. Steamboats could not ascend the Red River because of the Great Raft, so a more direct water route than the one outlined was not possible.²³

In December, 1830, President Jackson had directed that the removal should be controlled by the commissary department of the army. Lieutenant J. R. Stephenson of Fort Gibson was then ordered to go to the Kiamichi River to meet a group of emigrants from LeFlore's district. This group had elected to emigrate independent of the government trains; while a thousand were reported to have been sent west by LeFlore, only eighty-eight had arrived by the time Stephenson reached the Kiamichi on March 7, 1831. This group was composed chiefly of women and children and they were practically starving. Stephenson issued food and helped them set up a temporary camp, and plant crops for their subsistence.²⁴

23 Senate Document, II, 250-262; III, 228.

24 Ibid., I, 856-860.

Back in Mississippi the emigrants who had assembled at the Vicksburg station were divided into two parties, one of which proceeded up the Mississippi to the Arkansas Post and from thence up the Arkansas River to Little Rock. The route from there to Washington was begun with forty-five wagons in the train, each with a team of four or six oxen or horses. The road to Washington was new and indescribably bad. As Captain Brown, the officer in charge on the western side of the Mississippi said of these roads:

The roads are horrid, horrid in the extreme. I have large companies repairing the roads and making bridges on the route, but, notwithstanding all this, the roads continue to be horrid.²⁵

The emigrants were at Antoine Creek by the middle of January. Here they bogged down because of the extreme cold weather which had set in. The temperature stayed around zero, and as the Indians were not prepared for such extreme weather, they suffered immeasurably. Writing of their sad condition, Captain Brown says:

This unexpected weather causes much human suffering. Our poor emigrants, many of them quite naked and without much shelter must suffer. It is impossible to make any progress to their destination; hence how unfortunate the time for this operation. An overland journey just commenced of about 350 miles to be accomplished at mid-winter, through a country settled little and literally impossible to anything but wild beasts.²⁶

To add to the misery of the poor Indians, six inches of snow covered the hard frozen ground.

Captain Brown had cause to complain also for the slowness of the War Department in forwarding the funds necessary to supply these poor Indians with

25 Ibid., 427-428.

26 Ibid., 234-235.

the rations they were in need of so badly. Besides the party of Indians under his immediate control, there were, scattered along the route, four stations under the care of his agents, who were likewise in need of funds. Supplies had been purchased along the route from white settlers, and these were clamoring for their money. Captain Brown decries the state of affairs in a letter to the War Department saying:

If a part of the remittance which is now on the way SOMEWHERE had been deposited in New Orleans or western banks, I would not be suffering the distress and torture I am now, in consequence of failure to receive these funds Four of my agents are now in charge of emigrants and all are begging for funds. They tell me it will be impossible to sustain themselves and parties much longer.²⁷

In a later letter he closes with the appeal, "God grant the speedy arrival of funds." However, the funds did not arrive until ten days after this last appeal.²⁸

A group of Choctaws from Mushulatubbee's district, who had emigrated independent of the government, under the direction of Peter Pitchlynn, marched to Memphis where they crossed the Mississippi. They had planned to travel overland from there to their new home, but the excessive rainfall had made the swamps, through which they had to travel, impassable. They boarded the Brandywine on the first of December and proceeded down the Mississippi to the mouth of the White River and up it to the Arkansas Post where they landed. Their horses had been taken in flatboats, and here they remained for six weeks waiting for the Arkansas River to rise sufficiently to be navigated to Fort Smith. In January they were taken on board the Reindeer and arrived at Little Rock on

²⁷ Ibid., 429.

²⁸ Ibid., 432.

the twenty-second. After stopping there for one day, the Reindeer departed for Fort Smith. However, the boat was arrested by low water about ninety miles below that post, and the emigrants were forced to disembark with their possessions and remain in camp there through one of the coldest periods ever known in the country.²⁹ A month later they were able to board the Reindeer again to ascend the river, and they reached Fort Smith on February 20, 1832.³⁰

The emigrants who had taken the route down the Mississippi River and up the Red River to the mouth of the Washita River encountered practically the same difficulties as those who took the more northern route. Captain Colquhoun wrote from the post on the Washita River:

The streams are high and kept up by frequent rains. The roads from here to the Kiamichi are one continued quagmire, owing to the number of wagons that have passed. The teams have had a terrible season, and the wreck among them is very considerable. The unusual severity of the winter has caused much suffering among the Indians.³¹

Profiting by the experience during the first year's emigration of the Choctaws, the War Department issued a new set of regulations in May of 1832. Henceforth, the Commissary General of Subsistence would have entire supervision of the Indian emigration. Special agents appointed under this Department would have charge of the general operations connected with the emigrating parties. All disbursements were to be made by officers of the Army assigned for that duty. No transportation overland was to be provided for the Indians, except for those who were too young or too infirm to walk.³²

29 Ibid., I, 438, III, 169.

30 Ibid., I, 440.

31 Ibid., III, 437-439.

32 Senate Document, V, 236-240.

By October the second removal of the Choctaws was under way, but the Indians were slow in assembling. New agents had been appointed and there were rumors of cholera along the Mississippi River. The whole party consisted of 2,000 emigrants headed for the Red River district of their new home. Major Frank Armstrong, reporting on the group leaving by way of Memphis, says:

The Indians leave their homes with reluctance. We have had a storm for the last twenty-four hours, and torrents of rain have inundated the roads; we must now have a flood. The swamp is impassable.³³

Fear of the cholera had its demoralizing effect on this whole Indian removal. The Choctaws and their agents also grew much alarmed when reports continued to reach them that the disease was spreading throughout the country. All the boats going down from Louisville were suffering great mortality from the ravages of the disease. Great difficulty was encountered in engaging boats for the crossing from Memphis. When a steamboat was finally procured many refused to go on board for fear of the cholera. It was necessary to ferry these across the Mississippi and let them proceed by land to Little Rock. Hundreds of emigrants and their horses and baggage had to be ferried across the river on a government snag boat.³⁴ The swamps on the western side of the Mississippi were almost impassable; the road which the emigrants traveled was knee deep to waist deep in water for more than thirty miles inland.³⁵

The emigrants who had gathered at Vicksburg in October of 1832 found the cholera raging in the city, and the inhabitants fleeing toward the interior

33 Ibid., I, 386.

34 Ibid., I, 395, III, 356.

35 Ibid., III, 360.

of the state. Speaking of the difficulties they encountered Major Armstrong wrote:

We have suffered from the cholera, but the mortality in this party has not been too great. This disease has caused so great and so general a panic, that the consequences cannot be calculated. Seventeen Government teamsters left the service and six of the hired wagons have gone.³⁶

Another group of emigrants had reached Vicksburg by the middle of December of that year. They had brought their cattle with them and one night during a storm the cattle broke from the lot where they were confined and more than twenty of the herd were irretrievably lost. Again, near the Mississippi River, about ten head of fine cattle escaped and were lost.³⁷ This group of emigrants crossed the Mississippi without further mishap, but they encountered new difficulties as they approached the Arkansas River. When they reached the east bank of the river, the water was exceedingly high, and the river continued to rise until it was out of its banks. The crossing took twenty-eight hours with the help of the steamboat Volant.³⁸

In the north, Major Frank Armstrong arrived at Little Rock with the last party of Indians numbering about 1,800. This emigration had crossed the Mississippi from Memphis and had suffered grievously in the swamps. As a result of exposure, many were ill and several died along the way.³⁹ Some groups

³⁶ Ibid., I, 737.

³⁷ Ibid., I, 884.

³⁸ Ibid., I, 890.

³⁹ In the financial statements of the agents there is an occasional entry: planks for 3 coffins . . . 1 loaf of sugar for sick Indians . . . making 2 coffins . . . \$5.27 . . . medicines and clothing for suffering Indians.

rather than struggle on had actually taken up camp there for a winter's hunt and Armstrong had to force them from their ill-chosen position.⁴⁰ Writing of his difficulties, he says:

No one but one who was present can form any idea of the difficulties that we have encountered owing to the cholera and the influence occasioned by its dreadful effects. It is true that we have been obliged to keep everything to ourselves and to browbeat the idea of the disease, although death was hourly among us, and the road lined with the sick The extra wagons hired to haul the sick are five to the thousand Indians; fortunately they are a people who will walk to the last, or I do not know how we could get on.⁴¹

By the middle of January, 1833, more than three thousand Choctaws had arrived under the care of the Government agents in the vicinity of Fort Towson, and over two thousand had reached Fort Smith. Small emigrating parties straggled in throughout the winter making the second season's emigration from Mississippi amount to more than six thousand Chocataws.⁴²

A message from the President upon the subject of removal of the Indians at this time states that he is most anxious that all the arrangements necessary to the complete execution of the plan of removal, and the ultimate security and improvement of the Indians, be made without further delay.⁴³ This message of February 15, 1833, makes one wonder if the President had been informed of the hazards the Indians were encountering in their removal.

In June, 1833, there was much distress among the newly settled emigrants along the Arkansas River. An extraordinary rise in the river caused a

⁴⁰ Senate Document, II, 401.

⁴¹ Ibid., III, 436.

⁴² Ibid., II, 218.

⁴³ House Document 116, 22d Cong., 1st Sess., 1.

devastating flood which brought about the total loss of the new corn crops, the destruction of cows, cattle, calves, and hogs which were carried away by the sudden rise of the water. Two government corn cribs were carried away, and supplies of blankets, rifles and clothing were covered with water for ten days. These had to be issued to the Indians as no others were sent to replace them. Writing of this catastrophe, Major Armstrong said:

The situation of these people requires that something would be done for them speedily. The hand of Providence has left them in this situation and as I humbly conceive, fairly upon our Government. I think all those who have lost their crops should be allowed to draw the corn part of their ration until their corn is fit for use next fall. There can be no frauds; the high water mark will be plain here for years to come.⁴⁴

Those who had settled on the Red River did not fare much better. Due to diseases of a bilious nature, there was much illness and many deaths among them. By October 1833, more than 165 had died.⁴⁵ The cause of so many deaths was probably due to the change of climate, and to the Indians having no physician among them except their own doctors who were "conjurors and montebanks."⁴⁶ One group who had settled at Fort Coffee, on the banks of the Arkansas suffered a decimation of their numbers by small pox.⁴⁷

Ploughs badly needed by the Indians were stored for six months at Little Rock because a government order was lacking. The cattle, which were

⁴⁴ Senate Document, IV, 660. The ration consisted of $1\frac{1}{2}$ lbs. of fresh beef or pork, or $\frac{3}{4}$ lbs. of salt port, and $\frac{3}{4}$ qt. of corn or wheat flour, per person. Salt was distributed 4 qts. per hundred persons.

⁴⁵ Ibid., 845.

⁴⁶ Ibid., I, 851.

⁴⁷ Chronicles of Oklahoma, "Old Forts of Indian Territory," Oklahoma Historical Society, Oklahoma, VI, 381.

supposed to replace in the new country the herds left behind in Mississippi, were not purchased by the government in time for the Choctaws to have the benefit of the spring increase. Being pressed for these articles Major Armstrong complains to the War Department:

I know the funds have been appropriated; and the Indians charge me with neglect. Confidence once lost is hard to regain with them. The cattle due a year ago have not arrived; the axes, ploughs, hoes, and looms, amounting to five hundred each, I have heard nothing of; the iron and steel has not yet reached us.⁴⁸

In the fall of 1833, the final period of emigration was begun. Six thousand Choctaws yet remained in the old Nation to follow their kinsmen over the "trail of tears" as they now called the road to the West. Of those who remained only 900 could be persuaded to emigrate. About two thousand positively refused to leave, and in order to avoid the government agents some went to Mobile, and others went through state of Mississippi, picking cotton in the different plantations.⁴⁹ However, nearly all of Moshulatubbee's district decided to go as this would be the last year in which they could emigrate at the expense of the government.⁵⁰

Again there was trouble in crossing the Mississippi River. The snag boat Archimedes, broke her shaft and was out of commission at the last moment. The steamboat, Yeatman, engaged for the removal of the emigrants, burst one of her boilers, and a number of hands on board were killed in sight of the river landing. This frightened many of the women and children, and there was

⁴⁸ Senate Document, I, 858.

⁴⁹ Ibid., II, 345.

⁵⁰ Ibid., II, 346.

difficulty in getting them to board the boat. All who could be persuaded to go by water were landed at Rock Roe on November 7, 1833.⁵¹

Although this was the last official emigration of the Choctaws, many of those who had remained in Mississippi came west in small groups during the next ten years. Those who elected to remain permanently in Mississippi were given a reservation of one section of land according to the treaty of 1830.⁵² These reservations were to be kept as near to each other as possible and made up of land that would be good for all farming purposes. The President would not recognize the right of a single white person claiming lands in the Choctaw country under a deed from an Indian.⁵³ The sale of the lands was completely under the jurisdiction of the government, and the total sales amounted to over eight million dollars. The estimation of the cost of the removal of the Choctaws, together with all the other expenses of the Treaty of 1830, was set at about five million dollars.⁵⁴ The government thus reaped a profit of practically three million dollars on their real estate deal. Under the title of the New Proceeds claim, the Choctaws fought this case for sixty years, and while it was decided in favor of the Indians at the end of that time,⁵⁵ the cost of adjudicating this claim over that long period practically absorbed all of the

51 Senate Document, I, 411.

52 Kappler, II, 317.

53 United States Senate Document, No. 266, 23d Cong., 1st Sess., "Report from the Secretary of War," April 11, 1834, 17-18.

54 Angie Debo, The Rise and Fall of the Choctaw Republic, Norman, Oklahoma, 1934, 73-74.

55 United States Miscellaneous Document No. 94, 42d Cong., 3d Sess., "Memorial of the Choctaw Nation," 1-7.

money due the Choctaws.⁵⁶

Thus the Choctaws not only endured every suffering from hunger and cold to sickness and death, but they also paid every dollar of the expenses incurred in the removal. And this in spite of the positive assurance made to them by the government, that they would receive every advantage for their own welfare and progress if they would remove to the West yielding their tribal lands to the Government.⁵⁷

56 Kappler, I, 285-86, June 30, 1888.

57 Ibid., II, 320.

CHAPTER II

STEPS LEADING TO THE CREATION OF THE DAWES COMMISSION

During the period from 1833 to 1861, the Choctaws sought to adjust themselves to life in their new frontier country. They accepted the Christian religion and code of morals, established an educational system worthy of any state in the Union, and adopted a constitutional and legal system based on that of the United States. They modified their agricultural and commercial practices to form a profitable economic system. They adopted to a certain extent, the dress, living conditions, and business methods of their white neighbors. All of this was done without their giving up their tribal customs.¹

The peaceful society which they had formed through these years was rudely disrupted by the Civil War. The Indians tried to maintain a neutral position at the beginning of the conflict, but their Texas and Arkansas neighbors were active propagandists of the southern cause. Due to their influence, the Choctaws made a treaty of alliance with the Confederate States on June 10, 1861.² When the war was over the Five Civilized Tribes were told that their old treaties with the United States were no longer in force, since they,

1 Angie Debo, The Rise and Fall of the Choctaw Republic, Norman, Oklahoma, 1934, 58-94.

2 Indian Archives File, Choctaw, Federal Relations in a proclamation of Chief Hudson, June 14, 1861, Oklahoma Historical Society, Oklahoma City.

themselves, had broken the treaties and joined the South in a war against the United States.³ Due to the astuteness of the delegates who were sent to Washington to negotiate a peace treaty, the final terms were much more favorable than the Indians had expected. In an address sent out by Chief Pitchlynn urging the ratification of this treaty, an explanation of its terms were given as follows:

The United States Commissioners made known to us the fact that we were liable to forfeiture of everything by reason of having allied ourselves with the South, but, as a matter of humanity and mercy, the United States would only take from us the "Leased District"⁽⁴⁾ without compensation, and one-third of our country east of the 98th meridian of west longitude, for a very inadequate consideration; confiscate all our back annuities, school and other funds, for the last five years and free our slaves; requiring us to make such suitable provision for them as would meet the approval of the government of the United States.⁵

Pitchlynn went on to say that the experience of the war had shown them how insecure is the title to lands held in common. Since their lands were public property, the title was affected by the war. However, if the lands were to be surveyed and allotted to individuals in severalty, "no power on earth could change the title or tenure, except the individual owner." To guard against the improvidence of such as might be induced to sell their lands, a provision for "a homestead, of one hundred and sixty acres could be secured by treaty for a

3 Report of Commissioner of Indian Affairs, 1865, 306.

4 By the treaty of 1855, the Choctaws and Chickasaws agreed to lease the region lying west of the Chickasaw Nation between the 98th and 100th meridian. These lands were occupied by small tribes of Indians who objected to the United States' giving this land to the Choctaws.

5 Indian Archives File, Choctaw, Federal Relations, "Address of Chief Pitchlynn," July 12, 1866. Oklahoma Historical Society, Oklahoma, 1-4.

period of twenty-one years which would be absolutely inalienable."⁶

There were few white people in Indian Territory at the end of the war, but as the years went by, more and more white people found ways to enter. They could not live there without the permission of the Indians; however, labor was often needed, and white men, for the payment of a small yearly fee, received permits to work as laborers on the farms.⁷ One thing that brought many white people to Indian Territory was the building of railroads across the region. By 1873 the Missouri, Kansas, and Texas railway had built a line across the Territory from Kansas to Texas.⁸ The coal industry brought more white people to the Indian lands since the Indians themselves did not operate their mines. By 1888 the Choctaws were receiving a royalty of one hundred thousand dollars a year from the production of coal.⁹ Asphalt mines in the Choctaw lands were also worked by white settlers who were given permits to live in the Territory.¹⁰ All white people living among the Indians without permission were called "intruders." These were a constant source of trouble to the Indians, as many of them had fled from the states to avoid punishment for crimes and were generally of evil repute.¹¹ Besides these different groups of white people,

⁶ Ibid., 8-9. It is interesting to note that when the Dawes Commission offered lands in severalty in 1894 the exact provisions given in this address twenty-eight years earlier by Peter Pitchlynn were followed.

⁷ Report of Commissioner of Indian Affairs, 1874, 71; 1887, 115.

⁸ Ibid., 1872, 76; Thoburn and Wright, II, 479-480.

⁹ Kappler, I, 256-60, February 18, 1888.

¹⁰ Acts of Choctaw Nation, October 24, 1873.

¹¹ Indian Archives File, Choctaw, Intruders, Oklahoma Historical Society, Oklahoma City.

there was a small group of intermarried whites, most of them completely identified with tribal interests, who shared the citizenship privileges of the Indians.¹²

The whole idea behind the removal of the Indians to the West, according to the government was to segregate the Indians from the white people. Every treaty from 1828 to 1866 was based on this idea of exclusion of the Indians from the whites and their nonparticipation in Indian political and industrial affairs. As we have seen the Indians themselves abandoned this policy of exclusiveness by admitting these white people within the Territory.

One of the difficult problems arising over this numerous white population was the question of laws and courts. The Indian laws did not bind the whites; neither could they enforce their rights in the Indian courts. The only courts to which they could have access were two neighboring courts. One was located at Paris, Texas, and the other at Fort Smith, Arkansas. The distances which parties would have to travel were great and the expense enormous. As a result minor offenders were disregarded, and arrests were seldom made even for serious crimes except where the guilt was evident.¹³

Another difficulty encountered by the whites in Indian Territory was the lack of schools for their children. They had no taxes with which to support public schools and they were prohibited from attending the Indian schools. While it is true that they went to the Territory with the knowledge that the education of their children would be left to their own efforts, still it was a

12 Kappler, II, 928, Article 38.

13 Report of Commissioner of Indian Affairs, 1877, 108; 1886, 157.

growing concern of the United States government that these children were growing up in ignorance.¹⁴

The first official act on the part of the government to permit white people to settle in Indian Territory was the opening of the Oklahoma Lands to settlement under the homestead laws of the United States.¹⁵ These lands lay nearly in the center of Indian Territory and consisted of the Unassigned Lands ceded to the United States Government by the Creeks and Seminoles in 1866 to provide homes for the smaller tribes of Indians.¹⁶ With this opening an entering wedge had been made and soon other Indian lands were opened to white settlement, as most of these areas lying west of the country of the Five Civilized Tribes had only a small number of Indians. On May 2, 1890, an act of Congress called the Organic Act was approved by the President. It provided that the Oklahoma Lands and the Panhandle¹⁷ should be joined to make the Territory of Oklahoma. All other lands west of the country of the Five Civilized Tribes should become a part of this territory as soon as they were opened to settlement.¹⁸ By August, 1893, the entire area known as Oklahoma Territory had been opened to settlement and comprised the western half of the present state of

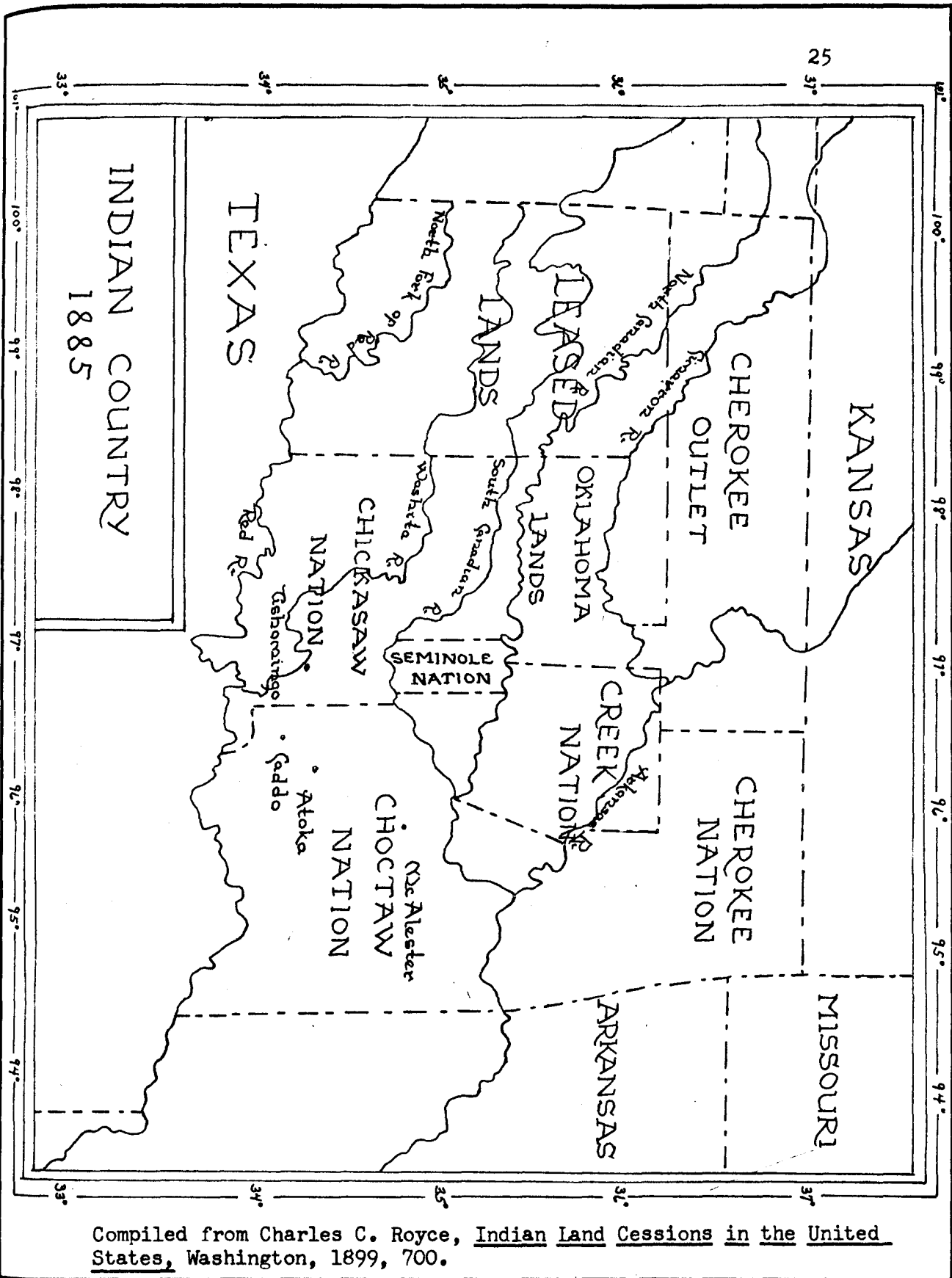
14 Ibid., 1887, 111; 1889, 205; 1890, 93.

15 Ibid., 1886, 158-159; 1888, 124-127.

16 Kappler, II, 717.

17 The northwest part of the Indian country joined the strip now known as the Panhandle. It lay outside the limits of any state or territory and was called "No Man's Land." Although it was partly settled it did not receive recognition from the Government until 1890.

18 Report of Commissioner of Indian Affairs, 1890, 251.



Compiled from Charles C. Royce, Indian Land Cessions in the United States, Washington, 1899, 700.

Oklahoma, and was equal in size to Indian Territory.¹⁹

Indian Territory comprised an area of 19,785,781 acres divided among the Five Civilized Tribes of the Cherokees, Creeks, Chickasaws, Choctaws, and Seminoles. Each tribe occupied a separate and distinct part, except that the Chickasaws and Choctaws, though occupying separately, had a common ownership of that part known as the Choctaw and Chickasaw Territory. Of their communal holdings the Choctaws received three-fourths and the Chickasaws one-fourth of all funds.²⁰ According to the Census Report of 1890, the Choctaws numbered 13,161 with 1,732 intermarried whites, 4,401 Freedmen, and 27,991 whites.²¹ The comparative isolation that had enabled the tribe to develop an independent society before the Civil War was now broken down and they were overwhelmingly outnumbered.

Aside from the injustice of trying to maintain all of these people within their territory without suitable laws and courts, the Indians had a greater problem of injustice among their own people. The inequality between the status of the large land-holding citizens and the small independent full-blood farmer was a source of much dissatisfaction. Some of these large landholders had as many as one hundred tenants; one Indian citizen by marriage had four hundred holdings amounting to about 20,000 acres of farm land. The monopoly was so great that it was determined that less than two hundred families had appropriated fully one-third of the best land. This class of citizens took the

19 Wright and Thoburn, II, 620.

20 United States Senate Report No. 377, 53d Cong., 2d Sess. 1.

21 United States Extra Census Bulletin, "The Five Civilized Tribes in Indian Territory," Washington, 1894, 56.

very best agricultural lands and left the poorer land to the less progressive full bloods. These poorer people lived near a stream or spring at some isolated spot in the hills. Their homes were rude log cabins or crude board huts, and they almost no contact with the outside world. They did not send their children to school often, and they were often threatened with starvation during a crop shortage.²²

Since the title to the lands in Indian Territory was held in trust by the leaders of the tribe, the government felt that this communal ownership was not to the advantage of all. In spite of several treaties promising non-interference on the part of the government, it was now generally held that some new arrangement was imperative.²³

Many bills were introduced in Congress to ask or to force the Indians of the Five Civilized Tribes to take individual allotments of land and to sell the remainder of their lands to white settlers. All these bills failed because of the treaty rights held by the Indians. However, on December 6, 1892, Senator George Graham Vest, of Missouri, introduced a joint resolution authorizing the appointment of a commission to treat with the Five Civilized Tribes in order to induce them to take homesteads. When the House bill to ratify the agreement for the purchase of the Cherokee Outlet²⁴ was being discussed, Senator

22 United States Senate Report, No. 377, 53d Cong., 2d Sess., 7-8.

23 Ibid., 9-12.

24 The Cherokee Outlet consisted of a strip of land about fifty-seven miles wide extending from the Cherokee country to the hundredth meridian. This land had been given to them by the United States at the time of their removal to the West so that they might travel over their own land to the hunting grounds on the Great Plains.

James H. Berry of Arkansas suggested an amendment be added to the bill making a provision for the commission to the Five Civilized Tribes. This was accepted by the Senate, and the bill was passed as amended. On March 2, 1893, the Senate incorporated the whole measure, including the provision for the commission, in the Indian Appropriation Bill which passed the next day.²⁵

According to the provisions of this bill, the President was to appoint three commissioners to enter into negotiations with the members of the Five Civilized Tribes for the purpose of extinguishment of the national or tribal title to any lands within that territory now held by any and all of such nations or tribes. Two methods were suggested: the first called for the cession of all the lands to the United States; the second provided for the allotment and division of the lands in severalty among the Indians of such nations respectively, as would be entitled to the same. It was further stated that all of this was to be done on the basis of justice and equity with the consent of the Indian nations. The ultimate goal was the creation of a state or states of the Union which should embrace the lands within said Indian Territory.²⁶

The Presidency had changed hands many times since the time of President Jackson, but one wonders if the then present incumbent, President Cleveland, had ever read those memorable words of the Treaty of Dancing Rabbit Creek:

That the United States would secure to them the jurisdiction and

25 United States Statutes at Large, XXVII, 645.

26 Laws, Decisions, and Regulations Affecting the Work of the Commissioner to the Five Civilized Tribes 1893 to 1906, Washington, 1906, 2.

government of all the persons and property that may be within their limits west; so that no Territory or State shall ever have the rights to pass laws for the government of the Choctaw Nation of Red People and their descendants; and that no part of the land granted them shall ever be embraced in any Territory or State.²⁷

27 United States Statutes at Large, VII, 333.

CHAPTER III

PRELIMINARY WORK OF THE DAWES COMMISSION

It was customary among the Five Civilized Tribes to maintain representatives at Washington for the purpose of looking after their interests when legislation concerning them was in progress. At the time the bill creating the Commission to the Five Civilized Tribes was before Congress, the Choctaw delegates sent out a circular to the executives of the tribe warning them against the proposed legislation. The principal delegates at that time, Green McCurtain and J. S. Standley, were to figure prominently in the Choctaw government during the next fifteen years. They warned their constituents that the United States no longer considered the treaties binding, but recommended no specific policy to "meet the danger which threatens."¹

After the passage of the bill, the President appointed the first three members of the commission. They were: former senator from Massachusetts, Henry L. Dawes, who was named chairman of the commission; Meredith H. Kidd of Indiana; Archibald S. McKennon of Arkansas, who became the most active in the affairs of the commission and the most popular with the Choctaws.² The commissioners were made acquainted with the details of their duties in a letter from D. M. Browning, the commissioner of Indian affairs, on November 28, 1893.

1 Indian Citizen, Atoka, I. T., October 7, 1893, 1, text of letter.

2 Report of Commissioner of Indian Affairs, 1894, 27.

This lengthy epistle gave a detailed report of the conditions in Indian Territory. It also stated the main reason for the creation of the commission by saying:

Success in your negotiations will mean the total abolition of the tribal autonomy of the Five Civilized Tribes and the wiping out of the quasi-independent governments within our territorial limits. It will mean, also, ultimately, the organization of another Territory in the United States and the admission of another State or States into the Union.³

The commissioners were further advised to endeavor, as the first step, to secure the allotment of the lands in severalty to the members of the tribes and the cession of the remaining surplus lands to the United States. Secondly, they were to negotiate with the tribes in order to get them to consent to the abrogation of the treaty stipulations wherein the government had agreed "that the lands of these Indians shall not be brought within the jurisdiction of any state or territory of the United States."⁴

The commission, usually designated as the Dawes Commission, held a meeting in Washington on December 8, 1893, and then proceeded to Muskogee, Indian Territory, where they set up their headquarters.⁵ They had been empowered by Congress to employ a secretary, a stenographer, and a surveyor or other assistant to aid them in their work. The sum of fifty thousand dollars had been appropriated for the expenses of the undertaking.⁶ It was expected

³ Dawes Commission Files, 1893, Indian Archives, Oklahoma Historical Society, Oklahoma. Copy of the letter to the commissioners, 10.

⁴ Ibid., 24-25.

⁵ Report of Commissioner of Indian Affairs, 1894, 415.

⁶ Ibid., 1893, 512-514, text of law.

that quarter-section allotments would be made and the remainder of the land purchased by the government, but the commissioners were given great discretionary powers in negotiating a settlement.⁷

On January 25, 1894, the committee met and addressed the Council of the Choctaw nation at the capital, Tuskahoma, and explained the object of the commission. The legislators listened, but a law was enacted providing for the appointment of a commission to attend an inter-tribal council and protest "against any dissolution of our present tribal relations or tenure of our lands." The commission was to meet the Dawes Commission and receive any propositions they might present.⁸ In March the Dawes Commission went to South McAlester in the Choctaw Nation and held separate conferences with the different tribes. It was during this international conference that some of the leaders seemed to be favorable to the cause, but the tide of favor turned against it when a telegram was received from the Washington delegates saying that no changes would be forced upon them unless they desired them. This convention had been dominated by the tribal officials and those having large land holdings.⁹

In April a resolution from the General Council of the Choctaw Nation was sent to the Dawes Commission. It read:

Be it resolved, by the General Council of the Choctaw Nation assembled:
That the Principal Chief is hereby authorized and required to notify the United States Commissioners now in Indian Territory . . . that the Choctaw Nation will not agree or consent to any proposition looking to

7 Ibid.

8 Commission to Five Civilized Tribes, Annual Report, 1894, 7-11.

9 United States Senate Document, Misc. No. 24, 53d Cong., 3d Sess., 7-8.

a change of the present system of holding their lands in common or change in their present tribal government whatever--and this resolution to take effect and be in force from and after its passage.¹⁰

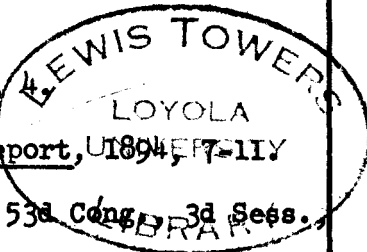
In spite of this resolution, the Dawes Commission continued to seek meetings with the Choctaw leaders. On April 23 they submitted a new set of propositions to the Choctaws and Chickasaws. There were the same proposals regarding allotments and mineral lands and townsites, and an additional guarantee that the United States would place each citizen in possession of his allotment without expense to the allottee. All claims against the government including the Leased District claim would be settled. All invested funds and the proceeds from the sale of minerals and townsites would be divided per capita. If the Choctaws and Chickasaws should so decide, a territorial government would be established over them and such other of the Five Civilized Tribes that might accept allotment, but the tribal governments would continue until the allotments should be completed and the per capita distribution of tribal funds effected.¹¹

The members of the Dawes Commission met with various groups and Indian committees during the spring and summer months, but no agreements were reached on any point.¹² In August they met a Choctaw Colored Citizens' Association and listened to an impassioned plea for equal division of all tribal property. The commission seemed impressed and thus showed themselves lacking in understanding of the terms of the treaty of 1866 which dealt with the negro

10 The Caddo Banner, Caddo, I. T., April 6, 1894.

11 Commission to Five Civilized Tribes, Annual Report, 1894, 7-111.

12 United States Senate Document, Misc., No. 24, 53d Cong., 3d Sess.



problem.¹³

During the winter of 1894-1895 the work of the commission did not progress. By an act of March 2, 1895, Congress appropriated \$30,000 for a survey of Indian Territory and by the same act enlarged the Dawes Commission by two additional members, ex-Congressman Alexander B. Montgomery of Kentucky, and Thomas B. Cabaniss, an attorney of considerable ability.¹⁴ The Commissioners who had been in Washington returned to Indian Territory by the first of May. The surveyors started their work of laying off quarter sections and townships. Their work was watched with apprehension by the Indians, but there was no attempt made to interfere with the work.¹⁵

Several letters were addressed to the various chiefs of the tribes, but they went unnoticed. In June the Cherokee chief called the representatives of the Five Civilized Tribes to another inter-tribal council. He encouraged them to resist any attempt from any quarter to effect a change in the present condition of tribal rule. The Choctaw delegates did not attend this meeting.¹⁶

During July and August the citizens of the Choctaw Nation favoring allotment met with the commissioners at Hartshorne and Atoka. Green McCurtain was one of the leaders at the latter place; he warned his countrymen that the Choctaws were already losing their independence and being crowded out by a

13 Commission to the Five Civilized Tribes, Annual Report, 1894,
24-32.

14 United States Statutes at Large, XXVIII, 939.

15 Indian Citizen, Atoka, I. T., June 27, 1895, 5.

14. 16 United States Senate Document, Misc., No. 24, 53d Cong., 3d Sess.,

population they could no longer control.¹⁷ This sentiment was not shared by the members of the Choctaw Council. After a meeting held at Tuskahoma, the Choctaw capital, a committee from the House refused to make any change saying "they relied on their treaties which they did not believe the United States would repudiate."¹⁸ Shortly after this meeting, the Choctaw Senate passed a bill, with only one dissenting voice, making it unlawful to treat with any who would overthrow the Choctaw government "or attempt to betray said land and Choctaw country into the hands of a foreign power." Since this would be considered as treason, the penalty for the offense would be death. The bill failed to pass the House.¹⁹

The commission returned to Washington, and made a report to the Senate committee on Indian affairs. The account was not very favorable and Dawes was greatly discouraged. He wished to withdraw from the commission, but the President prevailed on him to continue as chairman.²⁰ One member of the commission had already been transferred to other service; Meredith H. Kidd was replaced by Frank C. Armstrong, the son of Frank Armstrong, who had been in charge of the Indian removal from Mississippi, and had lived with the Choctaws until his death in 1839. Frank C. Armstrong had been born in Indian Territory in 1835.²¹

17 Indian Citizen, Atoka, I. T., July 25, 1895, 1.

18 Ibid., Nov. 7, 1895, 5.

19 United States Senate Document, No. 12, 54th Cong., 1st Sess., 4-5.

20 Ibid., 7.

21 Carolyn Thomas Foremen, "The Armstrongs of Indian Territory," Chronicles of Oklahoma, XXXI, 56-57. The Armstrongs were a Catholic family;

The members of the commission returned to the Indian Territory in the summer. Congress during its last session had enlarged their powers and required of them other duties in the following words:

. . . That this commission is further authorized and directed to proceed at once to hear and determine the application of all persons who may apply to them for citizenship in any of said nations, and after such hearing they shall determine the right of such applicant to be admitted and enrolled.²²

The commission notified Chief Jefferson Gardner of the passage of the new citizenship law by Congress, and they requested that complete rolls be sent to them. Gardner answered that he would lay the matter before the Choctaw council. However, when the commission visited Tuskahoma on July 27, the chief failed to appear, although he had promised to do so.²³

The Choctaw elections took place between July 27 and October 10, and Green McCurtain was elected chief.²⁴ In a letter to the commission on October 15, the new chief expressed himself as favorable to a meeting with the commission, and he asked that a time and place be named.²⁵ Thus for the first time, the Choctaw government was committed to a policy of dividing the land and negotiating officially with the Dawes Commission. They were the first of the Five Civilized Tribes to do so.

It was at this time that the Indian Right Association sent as their

he had been educated by the Jesuits at Holy Cross College, Worcester, Mass.

22 Commission to the Five Civilized Tribes, 1896, "Correspondence with the Representatives of the Five Civilized Tribes," 83-84.

23 Ibid., 40.

24 Commission to the Five Civilized Tribes, Annual Report, 1896, 46.

25 Ibid., Letter from Green McCurtain to Dawes Commission, 98.

agent, Charles F. Meserve to make a special investigation because the commission was charged with "being lacking in respect to the rights of the Indians and violating their treaty rights." His report corroborated the reports of the Dawes Commission in every detail. He spoke of the gradual change of attitude on the part of the Indians by saying:

. . . The commission has been opposed from the first by all classes who are profiting by the present method of conducting affairs, but the far-seeing are beginning to understand the situation. They see that the present regime is doomed, that a change, and that for the better and that too in the interest of the Indian rather than the intruder, is coming; and they are going to accept the inevitable before it is too late. Other Indians see that their rich patrimony is gradually slipping away from their control and feel that the United States should come to their rescue.²⁶

Much of this change of attitude on the part of the Indians was due to the influence of their new chief. In his annual message he recommended a friendly and conciliatory policy toward the United States. He advised the appraisement of the land and the selection by each citizen of a share equal to a specified monetary value. This plan was eventually adopted by the Dawes Commission.²⁷ McCurtain caused an international conference to be held at South McAlester early in November and a set of resolutions was presented to the Dawes Commission. These resolutions closed with the following declaration:

We represent sixty-five thousand of sober, industrious, self-supporting and God-fearing people; owners of the entire soil of Indian Territory by solemn treaty; We rely on the justice of our cause and the guidance of Divine Providence and we appeal to the moral

²⁶ Charles F. Meserve, "The Dawes Commission and the Five Civilized Tribes of Indian Territory," a report to the Indian Rights Association, Philadelphia, 1896, 5-30.

²⁷ Indian Citizen, October 8, 1896, text of McCurtain's message, 1.

sentiment of a great and magnanimous nation.²⁸

These resolutions were not acceptable to the Dawes Commission; so, numerous meetings continued to be held during the months of November and December. An agreement was finally reached at Muskogee in December which provided that the chief should deed to the United States the entire tribal domain, which should then be divided equally among the citizens except that each of the freedmen should receive only forty acres.²⁹

When the Dawes Commission presented this agreement to Congress, that body failed to ratify the agreement because of the violent protests on the part of the Chickasaw delegates. The latter objected to the trust plan of conveyance, insisting that the title to allotments should be made by the executives of the two tribes rather than by the United States.³⁰ Congress then sought to end the tribal governments of all the tribes by compulsory legislation, but the Indians were saved from this fate by the President's failure to sign the bill. The Chickasaws were now impressed with the necessity of coming to an agreement with the Choctaws and the Dawes Commission before any other dangerous legislation could be made. They appointed a commission and the two groups met at Atoka and came to an understanding with each other. After negotiating with the Dawes Commission, the Atoka Agreement was signed on April 23, 1897.³¹

Before the agreement was sent to Congress, the election of 1897 took

28 Commission to the Five Civilized Tribes, 1896, 99.

29 Commission to the Five Civilized Tribes, 1896, 100-106.

30 Indian Citizen, January 14, 1897, 4.

31 Commission to the Five Civilized Tribes, 1897, 409-415.

place and the Atoka Agreement was the basis of the political platforms of the two parties, with the Tuskahoma Party favoring its ratification, and the Union Party opposing it. The former party gained control of the new House and in conjunction with the Senate ratified the Atoka agreement and requested Congress to adopt it and carry it out.³² The Chickasaws, however, rejected it at a popular election held in December. Congress was legislating on the Curtis Act when the Atoka Agreement was presented for ratification by the Choctaw delegates. As a result the agreement, with some amendments, was incorporated in the Curtis Act which became law on June 28, 1898.³³ According to the provisions of this law the tribal governments of the Five Civilized Tribes were to be terminated, and the lands were to be allotted in severalty. However, it specified that the provisions should not apply to the Choctaw and Chickasaw nations if they would ratify the amended Atoka Agreement at a joint election before December 1, 1898.³⁴ This joint election was held on August 24, 1898, at Atoka, and the results were made known to the members of the two tribes in a proclamation which stated in part:

. . . and said commission hereby proclaim that there were cast for said agreement, 2,164 votes and against said agreement 1,366, there being a majority of 798 votes for said agreement. Know, therefore, by virtue of the authority in us vested by said law, we do hereby proclaim said agreement duly ratified by the members of said tribes in accordance with the terms and provisions of said act of Congress.³⁵

32 Indian Citizen, November 4, 1897, 1.

33 United States Statutes at Large, XXX, 475-495.

34 Report of Commissioner of Indian Affairs, 1898, 434-443. Text of Curtis Act and amended Atoka Agreement.

35 Department of the Interior, Annual Report, Washington, 1898, 75-80.

This document was signed by the principal chiefs of both nations and by two of the Dawes Commission. Green McCurtain, in his annual message to the Choctaw people in October, stated that he had had to contend with the most trying difficulties known in politics, namely: "money and ignorance." The representatives of money were those who had large pastures and had drawn large royalties from coal as well as other monopolies; the representatives of ignorance were those who would not read or even listen to causes of and reasons for a needed change.³⁶

Almost immediately after the ratification of the Atoka Agreement there arose difficulties over the mineral lands. According to the agreement, the coal and asphalt lands were to be reserved and the royalties were to be collected under the supervision of the Secretary of the Interior and used for the tribal schools.³⁷ This article of the agreement automatically placed the tribal schools under the management and control of the government. However, since a representative of the tribe had a place on the school board, the arrangement proved to be fairly satisfactory.³⁸

New difficulties arose over the complicated questions of citizenship, and there was annoyance manifested at the delay of the allotment of the land. The election which took place in 1900 was influenced by these problems. The platform of the Tuskahoma Party was stated by its adherents as follows:

³⁶ Indian Citizen, October 15, 1898, 1-2.

³⁷ Report of Commissioner of Indian Affairs, 1898, 438.

³⁸ Indian Archives Files, Choctaw, Federal Relations, 1909, "Annual Message of Green McCurtain to the Choctaw Nation," Oklahoma Historical Society, Oklahoma, 8-14.

We re-affirm our fidelity to the Atoka Agreement, and a strict adherence to carrying out its provisions. We favor as speedy a settlement of our affairs as is consistent with the economical administration of public moneys, to all citizens, irrespective of color or condition. . . . We re-affirm our faith in the policy of making the revenue derived from the leasing of coal a common school fund.³⁹

This was a much more conservative platform than that of the Union Party which opposed the Atoka Agreement as inexpedient, incomplete and uncertain in terms. It advocated the selling outright of all coal lands and the division of the proceeds.⁴⁰ The Tuskahoma party was victorious in electing its candidate, Gilbert W. Dukes, and in gaining control of both houses of the Council.⁴¹

The Dawes Commission soon found that the affairs of the two nations could not be satisfactorily administered and settled under the Atoka Agreement, so after some meetings and resolutions, another agreement, variously known as the Supplementary or Ardmoreite or Supplemental Agreement, was made. It was signed at Washington, March 21, 1902, and ratified by Congress on July first.⁴² It made special provision for the coal and asphalt lands reserved from allotment and the sale of this property to outside interests, directing that the proceeds be divided equally among the enrolled Choctaws and Chickasaws (excepting freedmen) in the ratio of three-fourths to the Choctaw Nation and one-fourth to the Chickasaw Nation. The provisions relating to land allotment stated:

There shall be allotted to each member of the Choctaw and Chickasaw

39 Indian Citizen, June 21, 1900, 1-5.

40 Ibid., 6.

41 Ibid., October 4, 1900, 4-5.

42 Indian Archives File, Choctaw, Federal Relations, 1902, "Ardmoreite Supplement," 1-16.

tribes, as soon as practicable after the approval by the Secretary of the Interior land equal in value to three hundred and twenty acres of the average allottable land of the Choctaw and Chickasaw Nations, and to each Choctaw and Chickasaw freedman . . . land equal in value to forty acres . . . to conform as nearly as may be to the areas and boundaries established by the government survey, which land may be selected by each allottee so as to include his improvements.⁴³

Each member of each tribe was to designate further his choice of one hundred and sixty acres of his allotment as a homestead which was to be inalienable during his lifetime, or for a period of at least twenty-one years.⁴⁴ This provision protected the children of the Indians as no allotment other than that of the parents was made for them. This provision of the agreement was a blow to the large land holding citizens as it declared as unlawful, the holding of more than three hundred and twenty acres, ninety days after the final ratification of the agreement. This final ratification did not take place until September 25, 1902, six months after it was signed in Washington. A nation-wide campaign had been carried on through the Indian Citizen in order to acquaint the people with the provisions of the agreement. The campaign was successful, for the citizens of the two nations ratified it on September 25 by a joint vote of 2,140 to 704.⁴⁵

In the regular election in October of that year, the Supplemental agreement entered into the bitterly fought campaign. The Tuskahoma party returned Green McCurtain to the nation as chief amidst intense excitement due to both sides claiming a victory. It took the presence of two companies of Negro

⁴³ Ibid., 9.

⁴⁴ Ibid., 10.

⁴⁵ Indian Citizen, October 2, 1902. The campaign was carried on in the July and August issues of the paper.

soldiers from Fort Reno to put McCurtain in possession of the government. No violence occurred, but the Union party relinquished its hold only after it saw force might be used.⁴⁶

With this election the political opposition to the work of the Dawes Commission came to an end. Chief McCurtain remained in power until his death in 1910. He was a man of remarkable native ability, and one of the first Indians to recognize that the wiping out of the tribal government was inevitable. During the following years when citizenship claims and allotment problems harassed the nation, his guidance was accepted by everyone. He was respected alike both by the Dawes Commission and by his own people.⁴⁷

46 Ibid., October 9, 16, 23, 1902.

47 Indian Citizen, December 30, 1910, 5.

CHAPTER IV

ENROLLMENT OF INDIANS BY THE DAWES COMMISSION

The real work of the Dawes Commission was the enrollment of the citizens of the Five Civilized Tribes and the allotment of the land to these citizens. This work was carried on in the Choctaw Nation under the provisions of the Atoka and Supplemental Agreements. It proved to be complicated far beyond the expectations of the Federal and tribal authorities. The tribe had compiled a citizenship roll, but the commission had reason to believe that it was incomplete. They attempted, therefore, to check the roll by personal identification of every citizen in the tribe. According to an act of Congress of June 10, 1896, the rolls were to have been completed within ninety days from the passage of the act.¹ A vast number of claimants presented themselves before the commission although many of them were not on the tribal rolls. These latter claimants were rejected by the commission, but they appealed to the Federal courts of Indian Territory, and 2,175 of these "court citizens" were admitted to citizenship.² The Choctaws, realizing that these claimants would be depriving them of their natural inheritance when the allotment of land would take place, were greatly alarmed. In his message of October 8, 1897, Chief McCurtain

1 Indian Citizen, July 16, 1896, 6.

2 Report of Commissioner of Indian Affairs, 1898, 468-472.

appealed to his people to memorialize Congress "to permit only the Indian tribunals pass on citizenship claims."³ The Council authorized the Chief to seek a judgment of the United States Supreme Court against the constitutionality of the law which gave to the Dawes Commission and the Federal courts the power to determine Choctaw citizenship. A test case which reached the Supreme Court was lost when that body upheld the constitutionality of the law.⁴

Many of the claimants sent requests to the Chief for enrollment as citizens of the tribe. He was justly indignant at these people and published a righteous protest denying them the right of citizenship in the Nation and expressing the futility of their appeal to the Federal courts by saying, "Although the white man is smart enough to manufacture almost anything, he cannot manufacture an Indian."⁵

Through the services of their attorneys, the Indians managed to secure a provision for a special tribunal to which they might appeal the cases of the "court citizens."⁶ It was opened in 1902 and continued until the end of 1904. Many cases which had been settled by the Federal courts were reopened by the Choctaws in this court and after much litigation about 3,403 claimants were excluded, and property valued at \$16,000,000 was accordingly recovered for the tribe.⁷ The fees paid out to their attorneys at this time were seemingly

3 Indian Citizen, October 10, 1897, 1-5, text of message.

4 Commission to the Five Civilized Tribes, Annual Report, 1899, 160-178.

5 Indian Citizen, August 19, 1897, 4-5.

6 House Reports, 61st Cong., 2d Sess., No. 2273, I, 699.

7 Commission to the Five Civilized Tribes, Annual Report, 1902, 520-521.

exorbitant, but as the amount of money recovered through their services represented a large portion of their possessions, the investment was fully justified.

During the time the court cases were in progress, the members of the Dawes Commission were engaged in the actual enrollment of the Choctaw citizens. They visited the most remote parts of the nation in an attempt to enroll every person listed on the tribal rolls. This personal contact with the applicants brought about a better understanding of the work of the government and its officials.⁸ The members of the commission were assisted in their work by a group of Choctaw delegates appointed by the Council. These Indians were of great assistance to the Dawes Commission by their knowledge of the family history of the members of the tribe.⁹ Great difficulty was encountered in the attempt to register the fullbloods of the various tribes. These were almost violently opposed to enrollment. In some cases when the field parties came to a full-blood settlement, they found amusements planned in remote places to call the Indians away. In more than one instance a court order was necessary to compel the conservative fullbloods to submit to enrollment.¹⁰

Another group of Indians whose right to enrollment as citizens came into question at this time was the Mississippi Choctaws. These Indians who had refused to remove to Indian Territory in 1830 were still living in Mississippi under the concessions made to them in the treaty of Dancing Rabbit Creek. At

8 Commission to the Five Civilized Tribes, Annual Report, 1898, 6.

9 Ibid., 1904, 9-10.

10 Ibid., 1902, 32.

the request of Congress the commission made an investigation and reported that these Indians had a "right at any time to remove to Indian Territory and joining their brethren there, claim participation in all the privileges of a Choctaw citizen save participation in their annuities." To be eligible for enrollment, however, it would be necessary for such Indians to take up residence in the Choctaw Nation and establish their identity as the descendants of those who had elected to take allotments in Mississippi under the treaty of Dancing Rabbit Creek.¹¹ According to a later Congressional regulation these Indians could obtain their allotments and share of funds by locating in Indian Territory and remaining there for three years.¹² In order to afford these Choctaws an opportunity of being enrolled, the Dawes Commission went to Hattiesburg, Union County, Mississippi on December 17, 1900 to interview them.¹³ They spent more than a year trying to identify all the fullbloods, but most of them were suspicious of the commissioners and fled to the hills to avoid them. The workers were undaunted by the difficulties that beset them and they gradually secured the information necessary for identification.¹⁴

Since settlement was necessary before any allotments would be given to these Indians, Congress made an appropriation to aid these fullbloods in removal to Indian Territory. Their journey over the "trail of tears" was greatly simplified since they were brought by train, and assisted to settle

11 Commission to the Five Civilized Tribes, Annual Report, 1898, 5-10, Letter of Henry L. Dawes to Secretary of the Interior.

12 Report of Commissioner of Indian Affairs, 1902, 523-24.

13 Commission to the Five Civilized Tribes, Annual Report, 1902, 25.

14 Ibid., 27-30.

in the Choctaw country. Since they were a primitive people entirely unable to handle the problems that came to them with their new possessions, they were often a prey to speculators who hoped to obtain a share of their allotments. Many of them returned to Mississippi leaving their allotments in the hands of these land speculators.¹⁵

Among those who came to the commission for identification as Mississippi Choctaws were many who could not possibly prove their identification as such. The commissioners in speaking of this group of people, said:

The opinion seems to be prevalent among the ignorant classes of people, that all that is necessary to entitle them to be identified as Mississippi Choctaws is to prove that some of their ancestors were Choctaws and at one time resided in Mississippi.¹⁶

Another group of citizens whose enrollment presented special problems was composed of the freedmen of the Choctaw tribe. No roll of these negroes had ever been kept, and it was difficult to distinguish the descendants of their former slaves from non-citizen Negroes. The commission was assisted in this enrollment by Indian delegates who knew the history of the people.¹⁷ According to the treaty of 1866, all Choctaw freedmen were to receive forty acres of land, but they could not obtain any share in the tribal funds. Because of these limitations, many Negroes attempted to prove that they were illegitimate descendants of Choctaw fathers and Negro mothers and hence eligible to be enrolled as citizens of the tribe. According to tribal law no valid marriage could be contracted between a Negro and an Indian, so although these

15 Commission to the Five Civilized Tribes, Annual Report, 1902, 16.

16 Ibid., 1900, 17.

17 Ibid., 1902, 16.

illegitimate descendants might have Indian blood they were enrolled as freedmen. The Five Tribes Act passed in 1906 for the conclusion of tribal affairs further confirmed the Choctaw law by providing that all illegitimate "newborns" should take the status of their mothers.¹⁸

The rolls were closed on March 4, 1907, but there were many later attempts made to reopen them. The Indian Office was permitted with the consent of the tribal attorneys to add the names of 312 persons to the list as late as 1914.¹⁹ According to the Index to the Final Rolls the members of the Choctaw Nation were listed as follows:²⁰

Choctaws

Fullbloods	16,227
New Born Fullbloods	1,583
Minor Fullbloods	956
By Marriage	1,672
Choctaw Freedmen	5,546
Minors	473
Mississippi Choctaws	1,445
Minors	187
New Born	11
Grand Total	28,100

These rolls were the basis for the allotment of the tribal lands, the next duty of the Dawes Commission.

18 Kappler, Laws and Treaties, III, 170; Acts of the Choctaw Nation, September 18, 1896.

19 Senate Document, 62d Cong., 3d Sess., No. 1139, 18.

20 Index to the Final Rolls of Citizens and Freedmen of the Five Civilized Tribes in Indian Territory, prepared by the Commission to the Five Civilized Tribes, Washington, March 4, 1907, 1-163.

CHAPTER V

ALLOTMENT OF LAND AND TRIBAL DISSOLUTION

While the enrollment was in progress, other employees of the Dawes Commission were at work appraising the land. The land was divided into nineteen classifications, such as; "best black prairie," "bottom, subject to overflow," "rough mountain land," etc. The valuable timber section of the Choctaw land was the last to be appraised, and the estimation of the standing pine was made by timber experts. This work was carefully and honestly done and formed the basis for all future calculations in regard to the value of Indian lands.¹

In his message to the Choctaw Nation in October, 1900, Chief Dukes voiced his trust in the United States government in the allotment of the Indians' lands by saying:

. . . The United States purposes to make a division of our lands and other common property under the provisions of the Atoka Agreement. In carrying forward this work there have arisen and will yet arise many complicated questions, the satisfactory solution of which is necessary to a fair and equal division of our common property; and in settlement of these questions we should faithfully comply with our present treaty obligations. I believe the United States government desires to protect the interests of the Indians and to secure to them all their rights; and let us hope that when tribal dissolution shall come, our people will find that the United States has been faithful to her trust.²

1 Angie Debo, And Still the Waters Run, Princeton, 1940, 48.

2 Indian Citizen, October 4, 1900, 5.

This trust was hardly justified by the treatment the Choctaws had received in a previous land transaction which they sought to have rectified at the time the allotment of their lands was in progress. This transaction had been the settlement of the "leased district" or the lands of the Wichita reservation which had been deeded to the Choctaw Nation at the time of their removal from Mississippi. It was a vast acreage of about eight million acres valued at not less than a million dollars. According to the treaty of 1866, this land was to be divided among the ten thousand Choctaw freedmen when and if allotment in severalty ever took place. The only compensation given to the Indians was a sum of \$300,000. Under the terms of the Supplemental Agreement, the Choctaws were permitted to refer their case to the Court of Claims asking that the Dawes Commission appraise the land and the tribe be further compensated by the United States.³ The case was finally decided in favor of the Indians in February, 1904, but since the computation was based on comparative estimates used for convenience in allotting the lands, only a portion of the real value was paid to the Choctaws.⁴

At the beginning of the allotment of Indian Territory, the largest land areas in possession of the Five Civilized Tribes were held by the Choctaw and Chickasaw tribes jointly. The total area of the two nations amounted to 11,660,951 acres, of which 6,953,048 acres were in the Choctaw Nation located in what is today southeastern Oklahoma. At the time the government had sanctioned the allotting of the lands in severalty, the individual Indian had been

3 Kappler, Laws and Treaties, I, 780.

4 Statutes at Large, XXXVI, 809.

limited to three hundred and twenty acres of average land. According to the terms of the Supplemental Agreement, any member of the tribe found in possession of lands exceeding the aforesaid limit or having lands in any manner enclosed after the expiration of ninety days after the final date of the ratification of that agreement, "would be guilty of a misdemeanor and subject to forfeiture of said lands."⁶ This restriction was a blow to the large landholding members of the tribe who had been the chief opponents to the allotment in severalty. The first step to be taken before any allotment of lands could be achieved was the fulfillment of the article of the Supplemental Agreement which stated:

It is agreed that immediately upon the final ratification of this agreement, each of the principal chiefs or governors of said nations shall be, by such ratification, authorized and required to execute and deliver to the United States in the name of his nation, a deed conveying to the United States in trust, all the interest of said tribe in the lands of the Choctaw and Chickasaw Nations, which deed shall be in trust for the sole purpose, of carrying into effect the provisions of this agreement.⁷

Another important article of the same agreement guaranteed to the members of the two tribes the payment directly to each individual citizen of the per capita payments which had formerly been made to the chiefs of the tribes.⁸ One of the main reasons for this payment being made to the individual Indians was to aid them in improving their homes and lands, but since none of

⁶ "Ardmoreite Supplement," Indian Archives File, Choctaw, Federal Relations, 1902, 1-16.

⁷ Dawes Commission File, Manuscript, "Agreement Between the Five Civilized Tribes Commission and the Choctaws," December 18, 1896, Indian Archives Division, Oklahoma Historical Society, Oklahoma City, Oklahoma, 1-4.

⁸ Ibid., 8.

these payments could be made until one year after the tribal governments should cease to exist, the Indians suffered in consequence.⁹

Another problem associated with the allotment of the lands was the question of how to handle the townsites. Numerous towns had been built and peopled by white residents whose capital had been invested in large amounts in structures necessary for the increasing trade which was being carried on in these centers. They varied in population from 800 to 5,000 inhabitants who with few exceptions were doing a large and prosperous business. In spite of this the builders had no title to the land on which they lived. The title remained with the nation subject to reversion to the United States when the tribe should cease to exist.¹⁰ Aside from those who had settled in the towns, there were numerous other white citizens who had come into possession of tracts of land by one means or another, and alleged the right to their lands under some lease or agreement with some Indian citizen. Since the Indian had no authority to convey possession of any piece of land in the Choctaw Nation for any longer period than one year, these leases or contracts were void in so far as the Choctaws were concerned. The individual acts of Indians in such cases did not bind the tribe since their right to possess could not be conveyed unless they consented to it.¹¹

According to the provisions of the Atoka Agreement the United States

103-104. 9 Commission to the Five Civilized Tribes, Annual Report, 1897,

10 United States Senate Document, No. 12, 54th Cong., 1st Sess., November, 1895, 70.

11 Indian Citizen, January 25, 1900, 1.

had guaranteed to each Indian allottee immediate possession of his allotment upon issuance of allotment certificates. The obvious reason for this agreement was the removal of all intruders by the government before it could issue the allotment certificates.¹² These intruders were a source of great annoyance to the Commission in the carrying out of its work. Regardless of present occupancy, all townsite lots were offered for sale although the occupants were given the right to buy the land they occupied. All the proceeds of such sales were put in trust for the Indians.¹³ According to the terms of the Supplemental Agreement, there was to be no charge or claim made against the Choctaw or Chickasaw tribes by the government for the expenses of surveying and platting the townsites, or for grading, appraising and allotting the lands, but there are numerous references of huge appropriations being made from the Indian funds for those purposes.¹⁴

A Townsite Commission had been appointed under the terms of the agreement, and their duties were to plat the towns, appraise each lot on which valuable and permanent improvements had been made and affix the value of the improvements. These lands were then sold to the highest bidder.¹⁵ An example of how these lots were advertised for sale in the newspaper is as follows:

Lot sale at Atoka is hereby announced:

The fee simple title to 151 vacant lots can be secured under the authority of the Supplemental Agreement: payments easy and without interest.

12 Report of Commissioner of Indian Affairs, 1906, 31.

13 Ibid., 1897, 409.

14 United States House Document, No. 556, 58th Cong., 2d Sess., 3.

15 Indian Citizen, June 7, 1900, 6.

Atoka has long enjoyed the reputation of being the vast residence location in the Choctaw Nation. It is also well located for present business prospects and future growth, being at the junction of the Missouri, Kansas and Texas Railway.

The successful bidder for the purchase of any lots will be required to deposit with the United States Indian Agent, ten per cent of the amount for which such lots shall be sold. Payments at United States Indian Agency, Muskogee, Indian Territory.¹⁶

Aside from these townsites, other lands were segregated from allotment. These lands consisted of Choctaw-Chickasaw coal and asphalt land, the land occupied by schools and tribal buildings, and small areas needed for cemeteries and churches. It was stipulated in the Atoka Agreement of 1896 that the revenues from the minerals, including oil, coal, natural gas, and asphalt would be conveyed in trust to the United States for the sole use and benefit of the tribes and used for the education of the children of Indian blood.¹⁷ The Supplemental Agreement changed this policy to segregation and sale of the coal and asphalt land and the distribution of the proceeds among the citizens of the tribes.¹⁸ The tribes, realizing that they were losing control of their schools, were impatient to have their coal and asphalt lands sold and the funds distributed before the final tribal dissolution would take place.¹⁹

In the course of these allotment difficulties, an important change was brought about by the death of the chairman of the Dawes Commission, Henry

¹⁶ Indian Citizen, April 12, 1900, 5.

¹⁷ Report of Commissioner of Indian Affairs, 1902, 515.

¹⁸ Ibid., 1898, text of Supplemental Agreement, 440.

¹⁹ The Daily Capital, South McAlester, I. T., October 8, 1897, 1-3. Text of the Message of Chief Green McCurtain.

L. Dawes. Personnel of the Dawes Commission had changed several times since its formation on November 28, 1893, but the loss of their chairman was the most notable of these changes. In a resolution adopted by the commission, they paid tribute to their deceased chairman by saying:

In the death of Mr. Dawes we have lost a wise, kind and dignified chairman, associate and friend, the country has lost one of its most worthy and distinguished citizens, and the Indian his best known and most useful friend.²⁰

Tams Bixby, who had been closely associated with the commission and a member of it for several years, was appointed to succeed Mr. Dawes as chairman.²¹ When the commission was abolished two years later, Tams Bixby carried on the work as sole commissioner until his resignation in 1907.²²

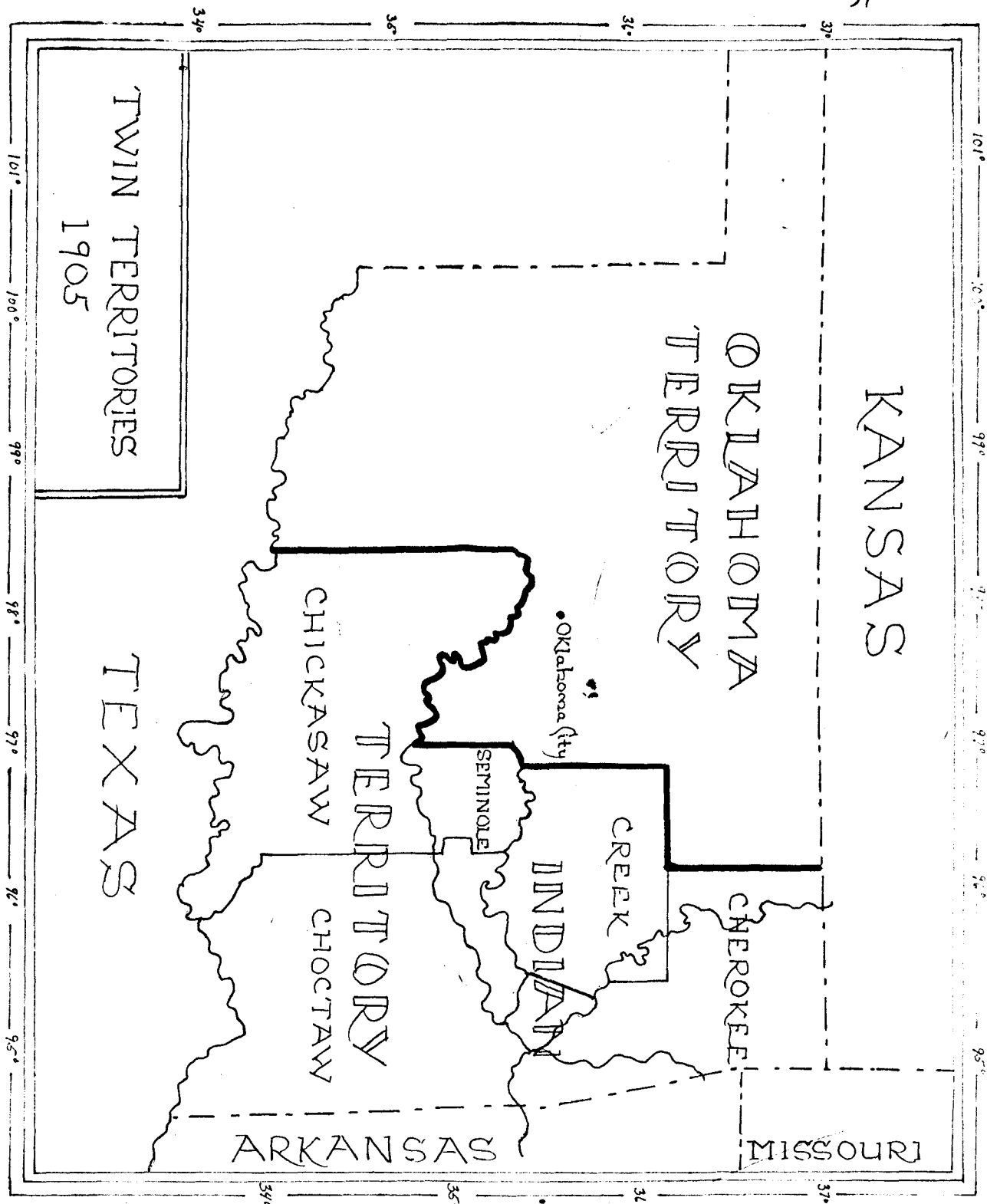
Shortly after Tams Bixby assumed the duties of chairman of the commission, land offices were established at Atoka for the Choctaw Nation and at Tishomingo for the Chickasaw. It was possible for a citizen to select his land in either nation or in both, but he had to make his application at the office where the land was located. Although the Supplemental Agreement had stipulated that the allotment would consist of 320 acres of average land, this acreage would vary in actual area since it was classified according to comparative values. As a result some shares ran as high as 4,165 acres in area.²³

²⁰ Minute Book, Five Civilized Tribes Commission, Dawes Commission Files, 1901-1903, Indian Archives Division, Oklahoma Historical Society, Oklahoma City, Oklahoma, 263.

²¹ Ibid., 270. Text of letter from E. A. Hitchcock, Secretary of Interior.

²² Department of the Interior, Annual Report, 1914, II, 5-6.

²³ Commission to the Five Civilized Tribes, 1903, 53; Kappler, Laws and Treaties, III, 412.



A controversy arose over the deeding of the allotments by the Secretary of the Interior and caused some disagreement between the Choctaw Chief and the Dawes Commission. The latter had received an official communication from Washington stating that the Attorney General had decided that the Secretary of the Interior alone had the power to approve the Choctaw and Chickasaw deeds. The communication further stated that deeds delivered without his approval were illegal.²⁴ On his part, Chief McCurtain claimed that there was no law, made either by treaty or by Congress, which authorized the Secretary to interfere with the delivery of the deeds. He also threatened to call in the certificates of allotment which had already been issued to the citizens of the tribe and issue deeds of his own making.²⁵ This controversy slowed up the work of the commission and resulted in a definite policy being decided upon by the Department of the Interior. The Chief had to yield to the decision which caused the deeds to pass through the hands of the Secretary before they were delivered to the Chief to be signed and delivered to the allottees.²⁶ As a result of this delay the deeds piled up and the clerical work involved in getting them signed was monumental. In one week 7,500 deeds were received by Chief McCurtain for lots in townsites; these had to be duly signed and filed in the vaults of the Dawes Commission. They were to be delivered to the grantees upon application and the fulfillment of the requisite formalities.²⁷

24 The Atoka News, Atoka, I. T., April 25, 1905, 4.

25 The Mannsville News, Mannsville, I. T., April 28, 1905, 1.

26 Ibid., May 25, 1905, 1.

27 Ibid., June 15, 1905, 3.

While the Allotment of the tribal lands was going forward, other questions were causing disturbances within the nation. The Doaksville constitution of 1860 was the basic law of the Choctaw Nation until it was dissolved in 1906. This constitution provided for a bicameral council, a supreme court, and it gave the executive authority to the principal chief elected by the people.²⁸ On March 14, 1903, Chief McCurtain published a letter which he had sent to each of the five tribes. This letter called for a constitutional convention for the purpose of erecting a state out of Indian Territory separate and apart from Oklahoma Territory. His appeal was poignantly stated:

It seems to me, in the light of our history, it would be fitting and just to permit the Indian to have a voice in the erection of at least one state, on a continent to which he once lay claim.²⁹

This plan was doomed to failure, for although the people of the Oklahoma Territory were impatient for statehood without being joined to Indian Territory, Congress favored single statehood for the two territories.³⁰ A year after his appeal to the chiefs of the Five Tribes for single statehood, Chief McCurtain addressed an appeal to Congress in behalf of his people saying:

We, the people of the Choctaw Nation, are unalterably, determinedly, and for all time opposed to the amalgamation of Indian Territory and Oklahoma. We respectfully petition that when Indian Territory is admitted to statehood, that it will be allowed to enter the sisterhood of States, not as a part of Oklahoma, but as a sovereign commonwealth, as was promised in the treaties made with us as a people.³¹

²⁸ Lester Hargrett, A Bibliography of the Constitutions and Laws of the American Indians, Massachusetts, 1947, 55.

²⁹ Indian Citizen, March 26, 1903, 1. Text of letter.

³⁰ Edward Everett Dale, Oklahoma, the Story of a State, New York, 1949, 275-282.

³¹ Acts and Resolutions of the General Council of the Choctaw Nation, Tuskahoma, I. T., October 31, 1904, 29.

This appeal went unnoticed, and on September 8, 1905, the final effort to gain admission into the Union as a state was made. The principal chiefs of the Five Civilized Tribes issued a call for a constitutional convention to meet at Muskogee to make a state constitution for Indian Territory. On the date set, the delegates assembled and the constitution was prepared. The new state was to be named Sequoyah in memory of the Cherokee Indian who had devised a system of writing the Cherokee language, which enabled the whole tribe to become a literate people in a very short time. This last great effort, like all the others, failed to achieve its purpose. By December of the same year, 1905, Congress took up the matter of the admission of Oklahoma Territory and Indian Territory as a single state, and on June 16, 1906, President Theodore Roosevelt approved the Enabling Act which paved the way for the admission of Oklahoma as the forty-sixth state of the Union on November 16, 1907.³²

While the chiefs were endeavoring to attain single statehood, the Dawes Commission was rapidly approaching the end of its duties. By March 30, 1905, it had six field parties of thirty-five members each, finishing the enrollments and allotments.³³ The enrollments consisted of applications for the addition of the names of infants born prior to September 25, 1902, to citizens by blood of the Choctaw and Chickasaw tribes.³⁴ The Commission to the Five Civilized Tribes was abolished in April, 1905, and the duties of the commission were carried on under the supervision of the former chairman, Tams Bixby,

32 Hargrett, 86-90; Dale, 285-293.

33 The Atoka News, March 30, 1905, 4.

34 Ibid., March 23, 1905, 2.

acting in accordance with the instructions of the Commissioner of Indian Affairs and the Secretary of the Interior.³⁵

With the abolition of the Dawes Commission came the final steps leading to tribal dissolution. In his message at the last session of the Council, Chief McCurtain said:

Gentlemen: The convening of the last General Council so close upon the dissolution of our tribal government on March 6, 1906, clearly indicates that no further legislation looking to the betterment of our condition could become effective before the end. . . .

In addressing your body for the last time, I cannot express the sentiment we all feel in common over the arrival of the fateful day when we must relinquish the institutions which we have learned to understand and cherish, and face a future filled with a strange uncertainty and seeming lack of interest in our welfare. . . . It is our hope that in the years to come the high standard of citizenship of the new state may be attributed in a large measure to those who can proudly lay claim to their Choctaw ancestry.³⁶

The Indians showed the great amount of confidence they placed in their chief by the extent of the powers they gave him to bring about a settlement of their affairs. Among other things he was permitted to sell the segregated coal lands and make provision for the distribution of any funds not yet provided for by the government.³⁷ The tribal dissolution which was set for March 6, 1906, was changed almost at the last moment by Congress in the following resolution:

Resolved by the Senate and the House of Representatives of the United States of America in Congress assembled:

That the tribal existence and the present tribal governments of the Choctaw, Chickasaw, Cherokee, Creek and Seminole Tribes or Nations of Indians in the Indian Territory are hereby continued in full force and effect for all purposes under existing laws until all property of

35 Department of the Interior, Annual Report, 1905, 76-78.

36 The Atoka News, October 5, 1905, 3.

37 Ibid., August 10, 1905, 4.

such tribes, or the proceeds thereof, shall be distributed among the individual members of said tribes unless hereafter otherwise provided by law.³⁸

This bill was approved on March 2, 1906, and the tribal government was continued in modified form for many years. Chief McCurtain was the last elected chief of the Choctaw Nation and he held his post until his death in 1910. In his annual message on October 4, 1909, he spoke of the difficulties of bringing the tribal affairs to a close, thus:

Notwithstanding the efforts we have made to wind up our tribal affairs, there yet remains much to be done before final settlement can be made. The interests of the Nation are large and not free from complications, and the closing up of the same must of necessity proceed with due care for the important and valuable rights of all the citizens concerned.³⁹

He was not destined to "wind up the tribal affairs" for death came to him on December 27, 1910 at his home at Kinta. He was sixty-eight years old and was survived by his wife, two sons and three daughters. He had been elected for four terms of four years each, the last time in 1902 when he was elected for life. He had been one of the first Indians of the Five Civilized Tribes to recognize that tribal dissolution was inevitable. Because of this realization he had been the first to advocate treating with the Dawes Commission with a view to allotment of the tribal lands in severalty and the creation of the state.⁴⁰

A month after the death of Chief McCurtain, his son, D. C. McCurtain, whose law firm were the attorneys for the Choctaw Nation, was appointed chief

³⁸ House Document, 63d Cong., 3d Sess., No. 1832, 40.

³⁹ Indian Citizen, October 7, 1909, 1. Text of message.

⁴⁰ The Quinton Pioneer, Quinton, Pittsburg County, Oklahoma, Dec. 30, 1910, 1.

of the nation by President Harding through the Secretary of the Interior, Ballinger. The appointment was received at McAlester, Oklahoma on January 3, 1911.⁴¹ He held the post for one year when Victor M. Locke was appointed to the position of chief which he held until 1930. The office was simply a nominal one, however, as the Secretary of the Interior took over the duties which he supervised through the Superintendent of the Five Civilized Tribes.⁴² With the death of the last elected chief, Green McCurtain, the Choctaw Nation may be said to have dissolved and the history of the Choctaw people as a tribe came to an end.

⁴¹ Department of the Interior, Annual Report, 1912, II, 504.

⁴² House Document, 63d Cong., 3d Sess., 1835, 42.

CRITICAL ESSAY ON AUTHORITIES

SOURCE MATERIAL

I. Manuscript Collections

The Oklahoma State Historical Society in Oklahoma City has an Indian Archives Division which contains several valuable files of Indian manuscripts. One of these designated as the Choctaw File contains the proclamations of the various chiefs, addresses of the chiefs to their people, various Indian documents and letters, copies of various treaties. These are catalogued and the sections under "Federal Relations" were very good for an understanding of the events that make up the scope of this thesis. In the same Archives Division the Dawes Commission Files are located. These files are not catalogued, but the material is filed chronologically and consists of correspondence between the commissioners and the chiefs of the Five Civilized Tribes, the agreements which were made with these chiefs, and the Minute Books of the meetings of the commissioners from 1893 when the commission was formed until its abolition in 1907.

The University of Oklahoma has in its library an excellent collection of Indian Manuscripts. Those of most value for this thesis were the Acts of the Choctaw Nation, 1857, 1869-1910, and the Manuscripts and Papers of John Ross. These manuscripts are found in the Phillips Collection of the University Library at Norman, Oklahoma.

II. Federal Documents

Since government relations with the Choctaw Indians was the focal point in this thesis, much of the material was taken from documentary sources. The United States Statutes at Large, Vol. IV contains the account of President Jackson's Indian Removal Bill of 1830. The marginal comments are an aid to a better understanding of this wordy document. On December 27, 1833, the United States Senate requested information of the Commissary-General of Subsistence regarding the expenditures of the Indian Removal. Accordingly there were published by the authority of Congress, five volumes of over four thousand pages of reports, journals, and correspondence touching every phase of the Indian Removal. Unfortunately the volumes are not indexed nor are they arranged chronologically. The first volume does have a table of contents consisting of the names of the commissioner and agents and a list of pages on which their correspondence appears. Since these volumes give a graphic account of the entire

process of the removal of the Indians to the West, they were very valuable if very difficult to use. They were issued as Indian Removal, Senate Documents, 23d Cong., 1st Sess., No. 512, Vols. I-V, Washington, 1834-1835. The United States House of Representatives also requested a financial statement of the Indian Removal, and this was published in a ninety-two page document as House Document, 23d Cong., 1st Sess., No. 171, 1832. A report of the Secretary of War in United States Senate Document, 23d Cong., 1st Sess., No. 266, 1833, gives an account of the three modes of locating reservations for those Indians who did not remove to the West. There were special instructions for the allotment of Indian orphan lands. The United States House Report, 23d Cong., 1st Sess., No. 191, 1833, contains an explanation of those features of the Treaty of Dancing Rabbit Creek which dealt with the land reservations in Mississippi, disposition of stock, and arrangements for sale of allotted lands. The United States House Report, 23d Cong., 1st Sess., No. 474, 1833, gives a report on conditions in Indian Territory subsequent to the removal of the Indians.

The Annual Reports of the Commissioner of Indian Affairs, 1824-1848, were published with the reports of the War Department as a part of the documents accompanying the Messages of the President of the United States to both Houses of Congress. Some of these reports were issued separately as House and Senate documents. Of these, House Document, 22d Cong., 1st Sess., No. 194, 1830, contains the report from the old Choctaw Agency in Mississippi. It gives an account of the life and general habits of the Choctaw Indians together with a full description of the manner of making clothing and methods of land cultivation. After the Office of Indian Affairs was transferred to the Department of the Interior by act of Congress on March 3, 1849, the Annual Reports were published in separate form under the title Report of Commissioner of Indian Affairs, with the date of publication. The ones used in this research were dated, 1891-1899. After this date the reports were published as Department of Interior, Annual Reports, 1899-1905.

Chairman Henry L. Dawes of the Commission to the Five Civilized Tribes and different members of the commission met with the Senate Committee on Indian Affairs in Washington annually and the reports then given were published as Senate Documents, 53d Cong., 2d Sess., No. 377, 1893; 54th Cong., 1st Sess., No. 12, 1895; 54th Cong., 2d Sess., No. 182, 1896. Other Senate Documents concerning Indian problems connected with the Dawes Commission were: 57th Cong., 1st Sess., No. 381, 1902; 58th Cong., 2d Sess., Nos. 106, 169, 189, 1905; 59th Cong., 2d Sess., No. 5013. This last named was a report of the select committee to investigate matters connected with affairs in the Indian Territory and was published in 1907 after the abolition of the Dawes Commission.

The Dawes Commission published its own series of Annual Reports under the title of Commission to the Five Civilized Tribes, 1894-1904. These reports were published annually in Washington at the end of the fiscal year. They give a detailed chronological account of the work of the commission in Indian Territory and form the most important source for the last two chapters of this thesis.

A volume of Laws Relating to the Five Civilized Tribes of Oklahoma, Washington, 1915, gives the laws in force from 1890 to 1914 which related to Indian Territory. This volume gave an account of the tribal funds and the uses for which they were appropriated from time to time.

The Laws and Treaties, "Indian Affairs," compiled and edited by Charles J. Kappler, Washington, 1904, Vols. I-IV, are an excellent compilation of all of the treaties made with the Indians from 1778 to 1871. After that date Congress decreed that no Indian nation or tribe within the territory of the United States would be recognized as an independent nation with whom the United States could contract a treaty. Hence after that date agreements entered into with the Indian tribes had to pass both Houses of Congress and be signed by the President, whereupon they became laws. Volume I contains the treaties and the later volumes contain the laws.

III. Choctaw Documents

Many bound volumes of Choctaw documents are in the Oklahoma Historical Society Library, Oklahoma City, Oklahoma. The Acts and Resolutions of the General Council of the Choctaw Nation, Tuskahoma, Indian Territory, 1904, contains the laws passed by the regular session of the Council and messages sent to President Theodore Roosevelt. These messages contain appeals for the Indian's treaty rights, single statehood for Indian Territory, and the removal of certain allotment restrictions. Another document, the Complete Roll of All the Choctaw Claimants and Their Heirs, St. Louis, 1889, is a sort of census which was used by the Dawes Commission in identifying Choctaw citizens. The Constitution and Laws of the Choctaw Nation with Treaties of 1855, 1865, and 1866, by Joseph P. Folsom, New York, 1869, is the original Choctaw constitution and the treaties made with the Confederate States and the treaty of 1866 which deprived the Choctaws of so much of their lands.

IV. Choctaw Source Material

Source Material for the Social and Ceremonial Life of the Choctaw Indians by John R. Swanton, was issued as Bulletin No. 103, by the Bureau of American Ethnology, Washington, 1931. This volume contains a very excellent compilation of the early history of the Choctaws. It deals with the primitive life of the Indians giving their methods of fishing and hunting, their games, their various ceremonials, and their religion. The History of the Choctaw, Chickasaw and Natchez Indians by H. B. Cushman, Greenville, Texas, 1899, is one of the few contemporary accounts of the Choctaw Indians available. Cushman was the son of a missionary to the Choctaws. He was born among them in 1820 and spent his life with them, removing to Indian Territory with them. His material is often given in a rambling and highly emotional manner, but it is of a kind that cannot be found elsewhere. His accounts of special aspects of Choctaw life, such as their migration legends and their burial customs are very good.

SECONDARY SOURCE MATERIAL

A volume containing a very detailed history of the Choctaw Indians

is Angie Debo's Rise and Fall of the Choctaw Republic, Norman, Oklahoma, 1934. It is a comprehensive study of the tribe from its legendary beginnings to its surrender of tribal autonomy. It is a scholarly work which Miss Debo did as her doctoral dissertation. Besides giving an excellent background for the period of this thesis, it also led the way to much source material. Two later works by Miss Debo are, And Still the Waters Run, and The Road to Disappearance. Both of these volumes deal with the Indians of Oklahoma. At present Miss Debo is the archivist at A. and M. University, Stillwater, Oklahoma.

Grant Foreman, probably one of the greatest authorities on the Indians of the Southwest, has written extensively on Indian life. Of his books, the ones found most helpful for the scope of this thesis were: Indian Removals, Norman, Oklahoma, 1932, which tells somewhat in detail the story of the removal of each of the five civilized tribes from their homes east of the Mississippi; Advancing the Frontier, Norman, Oklahoma, 1933, deals with a later period of Indian life. Dr. Foreman became director of the Oklahoma Historical Society in 1924 and was instrumental in the realization of the construction of the Oklahoma Historical Society Building. In 1936 he assumed supervision over projects to catalog the Indian records and newspapers in the Historical Society. My own research work which was done at the Oklahoma Historical Society Building was made much more simple due to the foresight of Dr. Foreman.

Federal Indian Relations, a doctoral dissertation by Walter H. Mohr, Philadelphia, 1933, was very good for the early period of Indian and government relations, but it did not go beyond 1819.

The Chronicles of Oklahoma, a quarterly published by the Oklahoma Historical Society, Oklahoma City, Oklahoma, contains many learned articles on the Indians. "Fifty Years of Choctaw Law" by Oliver Knight, Vol. XXI, May, 1953 gives a comprehensive account of the Choctaw system of law from 1834 to 1884. "The Choctaw Question," by Murial Wright in Vol. XIV, 1936, deals with the land questions of the Indians in Indian Territory. The encroachments of the white settlers, the coming of the railroads, and the attitude of the Indians toward these invasions of their land are some of the points covered in this article. Miss Wright is a Choctaw Indian who is at present associate editor of the Chronicles of Oklahoma. She collaborated with Joseph P. Thoburn in writing Oklahoma, a History of the State and its People, New York, 1929. This two-volume work is carefully documented and contains a wealth of material on the subject.

An Indian Rights Association publication by S. C. Armstrong, gives a Report of a Trip to Some Indian Reservations in the Southwest, Philadelphia, 1884. This report gives a financial, social and economic resume of Indian Territory at the time of his trip in 1883.

Newspapers

The earliest Indian publication of which copies were available is the Vindicator, New Boggy, Atoka, Indian Territory, 1872-1877. This paper was succeeded by the Atoka Independent, Atoka, Indian Territory, 1877-1889. The

Indian Citizen, Atoka, Indian Territory, 1889-1902, replaced the Atoka Independent, and it was more useful than the other two papers in the work of this paper. The Atoka News, Atoka, Indian Territory, 1900-1905, contained many useful articles on Choctaw life and a column headed "Washington Letter," reported on government affairs with the Choctaw Indians.

APPROVAL SHEET

The thesis submitted by Sister Jeanne Francis Moore has been read and approved by three members of the Department of History.

The final copies have been examined by the director of the thesis and the signature which appears below verifies the fact that any necessary changes have been incorporated, and that the thesis is now given final approval with reference to content, form, and mechanical accuracy.

The thesis is therefore accepted in partial fulfillment of the requirements for the Degree of Master of Arts.

May 20, 1954
Date

Paul Finney
Signature of Adviser